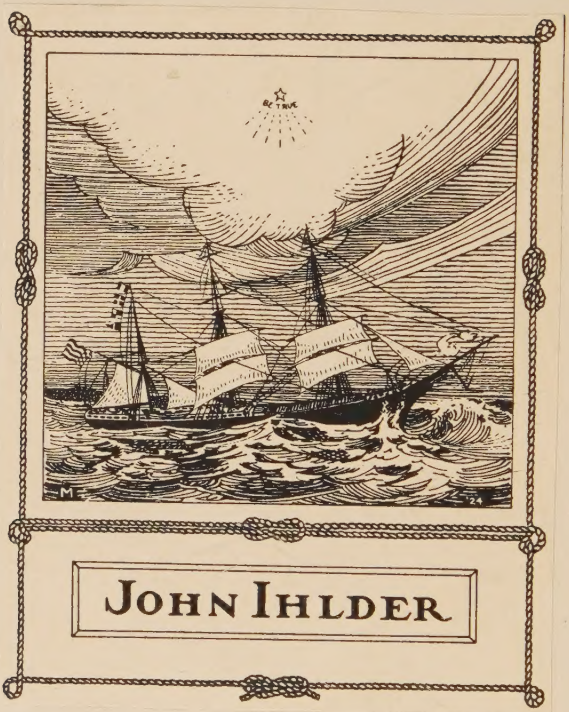
LAWS OF PENNSYLVANIA RELATING TO SOCIAL WORK

JOHN S. BRADWAY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LAWS OF PENNSYLVANIA

RELATING TO SOCIAL WORK

Compiled by

JOHN S. BRADWAY

of the Philadelphia Bar

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Introduction

THE present volume has been undertaken at the request of the Public Charities Association of Pennsylvania. The obvious limitations of space and expense have made necessary the elimination of everything that a special editorial committee could dispense with. For this reason, federal laws are in most cases omitted as proper for a separate compilation. Case law is included in only one or two instances. Laws, ordinances and regulations of a local rather than state-wide character are eliminated. Lists of institutions established by law will be found in other publications of the Public Charities Association.

This committee has had in mind a collection of statutes dealing with the routine problems of social work and that only. The reader is therefore warned not to expect a complete statement of the law. It is most unwise for a social worker, except one trained in law, to attempt to determine what is the law on a certain subject. An attorney is the proper source of such information in the first instance and this book is merely a guide.

An effort has been made by checking and re-checking to secure accuracy of text. In spite of such precautions there will be undoubtedly some errors. The reader will confer a favor upon the writer by bringing such matters to his attention.

The form of the book is based upon an admirable compilation of "Social Laws of Pennsylvania," written in 1914 by Ward Bonsall, Esquire, of the Pittsburgh Bar and published by the Associated Charities of Pittsburgh and the Philadelphia Society for Organizing Charity. The multitude of new laws since that time has made necessary the present volume. The writer is indebted to members of the editorial committee for valuable suggestions both as to form and substance.

In particular, appreciation is due the following persons who read and commented upon the text of particular chapters:

CHAPTER I—J. Prentice Murphy, *General Secretary, Children's Bureau*, Philadelphia; Bruce M. Watson, *Managing Director, The Public Education and Child Labor Association of Pennsylvania*, Philadelphia; Dr. Oliver P. Cornman, *Associate Superintendent of Schools*, Philadelphia; Dr.

Walter C. Cornell, *Director of Division, Medical Inspection of Public Schools*, Philadelphia; Clarence G. Shenton, *Assistant Director, Bureau of Municipal Research*, Philadelphia.

CHAPTER II—Mrs. E. S. H. McCauley, *Secretary of Welfare*, Harrisburg; Edwin D. Solenberger, *General Secretary, Children's Aid Society*, Philadelphia.

CHAPTER III—Miss Florence L. Sanville, *Secretary, Pennsylvania Committee on Penal Affairs*, Philadelphia; Leon Stern, *Secretary of Research and Field Studies, Pennsylvania Committee on Penal Affairs*, Philadelphia; Dr. Louis N. Robinson, *Chairman, Pennsylvania Committee on Penal Affairs*, Philadelphia.

CHAPTER V—Miss A. Estelle Lauder, *Secretary, Consumers' League of Eastern Pennsylvania*, Philadelphia.

CHAPTER VII—Dr. William C. Sandy, *Director, Bureau of Mental Health, Welfare Department*, Harrisburg.

CHAPTER VIII—Dr. William G. Turnbull, *Deputy Secretary, Department of Health*, Harrisburg.

CHAPTER X—Miss Mary A. Carson, *Pennsylvania School of Social Work*, Philadelphia.

The index to this volume has been prepared by Dr. Rex Crawford, Assistant Professor of Sociology of the University of Pennsylvania, and Frank Davis Preston, of the Public Charities Association.

In addition the following generously served as an *Editorial Committee:*

Karl deSchweinitz, *General Secretary, Family Society*, Philadelphia; Miss Eleanor H. Hanson, *General Secretary, Associated Charities*, Pittsburgh; Miss M. Alice Hill, *General Secretary, Associated Aid Societies*, Harrisburg; Aaron M. Lopez, *Secretary, Associated Charities*, Erie; J. Prentice Murphy, *General Secretary, Children's Bureau*, Philadelphia; Frank Davis Preston, *Western Pennsylvania Representative, Public Charities Association*, Pittsburgh; Edwin D. Solenberger, *General Secretary, Children's Aid Society*, Philadelphia; and George R. Bedinger, *Executive Director, Public Charities Association*, Philadelphia.

January, 1929 JOHN S. BRADWAY.

EXPLANATION OF REFERENCES

References to statutes and cases will be found in the footnotes. It is believed that those who use this book will require the citation in order to make a starting-point for a further study as to the law. Lawyers are accustomed to refer to a statute as the Act of Assembly of a certain date. For example, the Act of January 1, 1928, means the date when the Act was approved by the Governor. The Statutes of Pennsylvania, passed by each Legislature, are published every two years in books called the "Pamphlet Laws of Pennsylvania." To know that a statute was approved April 15, 1927, gives us the book of statutes in which we must look for it. Further reference requires the page number. This is indicated by the statement, for example, P. L. 10,000. This means Pamphlet Laws, Page 10,000. The entire citation given as an example will then read, "Act of April 15, 1927, P. L. 10,000.'

Case law is referred to by giving the name of the case, for example, Jones vs. Brown. This indicates that Jones was one party to the case, and Brown was the other, and the "vs." stands for "against." Case law is made only when a controversy arises but the principle involved in the case of Jones vs. Brown may be of universal application.

As there are many cases of Jones vs. Brown, and many books of case law, it is necessary to refer to the book where this particular one may be found, and also to the page in that book on which the case appears. Reports of case law are published each year. There are several series each dealing with the decisions of a particular court, or group of courts. These series are referred to by abbreviations, the most usual of which will be found below. The correct citation of case law then comprises the names of the parties, the series of reports in which the case is reported, the number of the volume and the page and year. A hypothetical case, for example, will read somewhat as follows: Jones vs. Brown, 300 Pa. 698 (1924).

The name is given first, then the number of the volume, then the series, the page of the volume, and finally the year.

The following series are frequently used:

Abbreviation	Series of Reports of Case Law from the Following Named Court
Pa.	Supreme Court of Pennsylvania
Pa. Super. Ct., or Super. Ct.	Superior Court of Pennsylvania
D. R., or Pa. D. R.	District Courts (that is, courts of various counties)
Pa. C. C.	County courts (a similar series of county court reports)
Pa. D. & C.	District and County Court Reports combined

The following are local references:

W. N. C.	Weekly notes of cases.
Pitts'h. J.	Pittsburgh Law Journal.

Laws of Pennsylvania Relating to Social Work

Chapter I

LAWS RELATING TO CHILDREN

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INTRODUCTORY NOTE

The admirable compilations of the Children's Commission of Pennsylvania consisting of a "Manual of General Statutes of Pennsylvania Referring to Children," dated February 1, 1925, and the "Legal Foundations of the Jurisdiction, Powers, Organization and Procedure of the Courts of Pennsylvania in Their Handling of Cases of Juvenile Offenders and of Dependent and Neglected Children," dated November 15, 1926, are so complete on this subject that both the form and substance are used in this chapter, although greatly reduced. Reference should be made to these books whenever possible.

These Manuals may be secured from the Bureau of Children of the Department of Welfare, Harrisburg, Pennsylvania

I. STATUS

A. Rights and Duties of Parent and Child

1. Duties and Liabilities of Parent and Child

a. Duty to Support

The liability for the support of poor persons not able to work generally is upon the "father and grandfather, and the mother and grandmother, and the children and grandchildren." The obligation to support is based on the fact that the person to be charged has sufficient ability. The rate of support shall be as the "Court of Quarter Sessions of the county where such poor person resides shall order and direct. The penalty for failure to support shall be forfeiting a sum not exceeding $20.00 for every month they shall fail to support and the sum shall be levied by the process of the court."[1] This is later stated as "the husband and wife, the father, the mother, and the children respectively of every poor person."[2] This law further provides that it is the duty of the directors or poor-law officers to make applications to the court by petition under oath, setting forth the necessary facts in all such cases.

The fundamental law on the subject of support is contained in the Act of 1836.

*In Case of Desertion by Husband or Father**

If a man separates himself from his wife without reasonable cause, or deserts his children, or if a woman deserts her children leaving them a charge upon the district, any magistrates in the county upon complaint made by overseeers of the poor of the district may issue their warrant to the overseers authorizing them to take so much of the property of the man or woman as in the judgment of the magistrate shall be sufficient to provide for the wife, and to maintain and bring up the children, which

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[1] Act of June 13, 1836, P. L. 539, Sec. 28.
[2] Act of April 6, 1905, P. L. 112, Sec. 4.
* This Act is not superseded by Act of March 13, 1903, P. L. 26, see Commonwealth v. Kenney, 80 Pa. Sup. 418, and Commonwealth v. Mills, Appellant, 26 Super. Ct. 549.

amount shall be specified in the warrant. If sufficient real or personal estate cannot be found the individual may be brought physically before the magistrate who may require him or her to give security for appearance at the next Court of Quarter Sessions to answer a charge of non-support, and for want of security, to commit the person to jail.[3]

The Court of Quarter Sessions may make an order for the payment of such sums as they shall think reasonable for support and maintenance, and authorize the overseers of the poor to dispose of the property of the man or woman by sale or otherwise to secure sufficient money. If no money or property is forthcoming the court may commit the person to jail to remain until he or she complies with the order, or give security for performance of the order, or be discharged by due course of law.[4]

The husband or father in the state who separates himself from, or neglects to maintain his wife or children without reasonable cause, may be arrested by any alderman, justice of the peace, or magistrate, upon information given by the wife or children, or any other persons. A warrant will issue to the sheriff, or constable, and the man shall be bound over, with one sufficient surety, to appear at the next Court of Quarter Sessions.[5]

Upon proceeding under this law the further steps are indicated as follows: The Court of Quarter Sessions, after hearing, may order the individual, being of sufficient ability, to pay such sum as the court shall think reasonable and proper, and may commit the person to the county prison until he complies with the order, or gives security for compliance. The court, to enforce compliance with the order, may issue an appropriate writ of execution against any property of the defendant, whether under the spendthrift trust, or otherwise, and this execution shall be a lien and continuing levy until the order has been paid in full with costs. The defendant is not entitled to the benefits of any exemption law.[6]

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[3] Act of June 13, 1836, P. L. 547, Secs. 29 and 30.
[4] Act of June 13, 1836, P. L. 547, Sec. 31.
[5] Act of April 13, 1867, P. L. 78, Sec. 1.*
[6] Act of June 15, 1917, P. L. 614, Sec. 1.

In these proceedings husband and wife are competent witnesses.[7]

If the defendant absconds, removes, or is found in any other county of the state than the one in which the warrant is issued he may be arrested in that county.[8]

After Order is Made

A person committed to jail and who is unable to pay the order or give security may at any time after three months be released if the court is satisfied of the inability of such person to comply with the order and give security.[9]

Where an order has been made for the support of a husband, wife, father, mother, child, grandfather, grandmother, or grandchild, or where an order has been made upon a husband, wife, father, mother, child, grandfather, grandmother, or grandchild, or a person confined in any hospital, asylum, home, or any other institution, at the charge of any county or poor district for the support of said person, and the order has not been complied with for a period of thirty days, the court may attach the person to appear in court, and if it appears that he wilfully neglects to comply with the order he may be adjudged in contempt of court.[10]

The penalty for being in contempt of court in this respect is a jail sentence not exceeding six months in the discretion of the court.[11]

This matter is further referred to where a man has deserted or neglected his wife or children, or where a father of an illegitimate child has neglected to comply with the order of the court against him for the support of the child, or for the payment to the mother for expenses incurred at the birth of the child, or in any proceedings where any child of full age has neglected to maintain his or her parents not able to work, or of sufficient ability to maintain themselves. The court may imprison the defendant at hard labor in such penal or reformatory institution as

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[7] Act of April 13, 1867, P. L. 78, Sec. 3.
[8] Act of May 2, 1899, P. L. 173, Sec 1.
[9] Act of April 15, 1869, P. L. 75, supplementing Act of April 13, 1867, P. L. 78. See 71 Pa. 413.
[10] Act of June 15, 1911, P. L. 973, Sec. 1.
[11] *Ibid*, Sec. 2.

the court shall direct, or may discharge him upon his own recognizance in the custody of a desertion probation officer, or other person, subject to such conditions as the court may, in its discretion, impose.

Where the imprisonment is at hard labor the defendant shall be paid sixty-five cents a day, Sundays and legal holidays only excepted, during the term of his imprisonment. The sum is paid as wages[12] to the person designated in the order of court as the proper recipient for such money.

Property Subject to Court Order

If the defendant violates the terms of a court order the court may issue an attachment upon the petition of any person having knowledge of the facts. The court has control over the forfeiture of the bail-bond.[13]

Institution of such a court order may issue against any property of the defendant, or against any property to which he is entitled whether under spendthrift trust or otherwise. It shall be a continuing lien.[14]

Wherever the lien is made against a husband in favor of the wife the court may issue execution against any real property, owned by the husband and wife by entireties, and the proceeds of the sale shall be divided equally between the husband and the wife, and the purchaser secures the same title previously held in entirety.[15]

A further law extends the similar right of execution where the order is made for the support of the children of the husband.[16]

It further provides that the wife is entitled out of the proceeds of the sale to such sum of money as represents her share in the property, based on the proportionate part of the original purchase money furnished by her for the purchase of said property.[17]

The same law provides that if the wife becomes the purchaser

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[12] Act of May 24, 1917, P. L. 268, Sec. 1. See also Act of June 12, 1913, P. L. 502, Sec. 2, which was declared unconstitutional because of defect in title of act, Fedorowicz v. Brobst, 62 Superior Ct. 458, aff. 254 Pa. 338.
[13] Act of May 24, 1917, P. L. 268, Sec. 2.
[14] Act of May 10, 1921, P. L. 434, Sec. 1.
[15] Act of June 11, 1913, P. L. 468, Sec. 1.
[16] Act of May 24, 1923, P. L. 446, Sec. 1.
[17] *Ibid.*, Sec. 2.

of the property at such a sale she shall be entitled to credit on the purchase price to the extent of her share in the property, and also for such money as may be due her from the defendant under support orders.[18]

A divorced woman, who is tenant by entireties of real estate by her former husband, is entitled to rights under this act in connection with money ordered by court to be paid her for the support of the children of such former husband as if she had not been divorced.[19]

In connection with execution against estates of absent husbands, reference should be made to the Act of February 22, 1718, 1 Smith's Laws 99.

Act of 1919

The law with reference to support of children is substantially summarized in the Act of 1919. It defines the word "children" to mean children under sixteen years of age, and those between sixteen and twenty-one as by reason of infirmity are incapable of supporting themselves. It defines separation and non-support as including cases where a husband has caused his wife to leave him by conduct on his part which would be grounds for divorce, or where a father has neglected to provide maintenance, support and care for his wife or children. The law makes this separation and non-support without reasonable cause a misdemeanor subject to a sentence of imprisonment not exceeding one year, and a fine not exceeding one hundred dollars or either, or both. This does not affect the other remedies. It merely adds to them.[20]

Jurisdiction over cases where parents fail to support their children is vested in the Courts of Quarter Sessions in all the counties except in Philadelphia,[21] where it is under the control of the Municipal Court, and in Alleheny County, where it is vested in the Allegheny County Court.[22]

b. Support of Children in Extraordinary Cases

Cities of the first and second class may appropriate moneys

[18] *Ibid.*, Sec. 4.
[19] *Ibid.*, Sec. 5.
[20] Act of July 12, 1919, P. L. 939, Secs. 1 and 2.
[21] Act of July 12, 1913, P. L. 711 and its amendments.
[22] Act of May 5, 1911, P. L. 198, and its amendments.

for the maintenance and care of destitute families, of persons sentenced in such cities to certain imprisonment, where the family at the time of the convictions were domiciled in such cities.[23]

The family of any person sentenced to imprisonment who are in destitute circumstances, may apply for assistance to a department of the city government duly designated for the purpose.[24]

The guardian of the estate of a lunatic or feeble-minded person may be directed by the court to make an allowance for the support and maintenance of the wife and his or her children, and the education of his or her minor children, and the guardian may use the property of the estate for the purpose.[25]

The support of children of public officers, or employees enlisted in the military or naval service of the United States is provided for.[26]

In order to secure such support evidence of dependency must be submitted to the person having charge of the distribution of money.[27]

Distribution to children of compensation payable under the Workmen's Compensation Act is made upon the death of the parents.[28*]

The net amount payable on a life insurance policy for the benefit of the wife or children of an individual shall be exempt from all claims of creditors if the obligation is created after the passage of the Act.[29]

2. Rights of Parent and Child

a. Actions for Injury to Child

In the case of injury causing death, persons entitled to recover damages, shall be the husband, widow, children, or parents of

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[23] Act of June 23, 1917, P. L. 639, Sec 1, as amended by the Act of April 12, 1923, P. L. 65, Sec. 1.
[24] Act of June 23, 1917, P. L. 639, Secs. 2, 3 and 4, as amended by Act of April 12, 1923, P. L. 65, Sec. 2.
[25] Act of May 28, 1907, P. L. 292, Sec. 6
[26] Act of June 7, 1917, P. L. 600, Secs. 1 and 2.
[27] *Ibid.*, Sec. 2.
[28] Act of July 11, 1923, P. L. 1060
*Note: See Chapter on Workmen's Compensation.
[29] Act of June 28, 1923, P. L. 884, Sec. 1.

the deceased, and no other relatives, it makes no difference whether they are citizens or residents of Pennsylvania, or of some other state, or of a foreign country. The sum recovered goes to them in the proportion they would take of the personal estate of the deceased in case of intestacy and that without liability to creditors under the laws of Pennsylvania.[30]

When a child is injured but not killed as the result of an accident, the right of action, if any, for the accident accrues to the child and also to the parent, and the two rights of action shall be redressed in only one suit brought in the names of parent and child. Either the parent or the child by his duly appointed guardian may waive his or her right of action, and his or her failure to join in the suit within twenty days after service of a rule to join or be barred shall be conclusive evidence of such waiver. But if both parent and child join in the suit, separate verdicts shall be rendered, one for the child and one for the parent.[31]

When a married woman contributes to the support and maintenance of her minor child by the fruits of her own labor or otherwise, she shall have the same rights and equal rights to control, authority, custody and services of the child possessed by her husband, if he is at the same time the father of the child, provided that the mother is a fit and proper person. In all cases of dispute between the father and the mother the court shall decide as to which parent, if either, the custody of the children shall be committed, regard being had to fitness of the parent, and the best interest and permanent welfare of said child.[32]

Where the father, from drunkenness, profligacy, or other cause, neglects or refuses to provide for the children, the mother shall have all rights, be subject to all duties, previously enjoyed by the father, without his interference, provided she shall afford them a good example and properly educate them and maintain them according to her ability. If she is of unsuitable character, or dead, the court may appoint a guardian for the children.[33]

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[30] Act of April 26, 1855, P. L. 309, as amended by Act of June 7, 1911, P. L. 678.
[31] Act of May 12, 1897, P. L. 62, Secs. 1 and 2.
[32] Act of June 26, 1895, P. L. 316, Sec. 2.
[33] Act of May 4, 1855, P. L. 430, Sec. 3.

When the father shall have failed to support for a period of six moths, or where the mother shall be charged by law for the support of the child, the mother shall have the same right to the services of the minor and have the same right to be compensated for the loss of such services as were previously possessed by the father.[34].*

b. Rights of Parent to Custody of Child

A married woman, a mother of a minor child, who contributes by the fruits of her own labor, or otherwise, toward the support, maintenance and education of the child has the same and full power, control and authority over the child, and the same and equal rights to its custody and earnings as previously possessed by her husband who is the father of the child, provided she is otherwise qualified. If either parent deserts the child or fails to perform parental duties toward the child, the remaining parent shall be entitled to the custody, services and earnings of the child, provided he or she is otherwise qualified. The father and mother have a joint right of action for injuries to the child, for the loss of its services and expenses incidental thereto, and either parent shall have the right to sue therefore in the name of both. If the father and mother live apart the action shall be maintained by the parent having the custody of the child and the control of its services.[35]

c. Changed Name of Parents

Whenever the parent or adopting parent changes his or her name the new name shall thereafter be borne likewise by the minor or adopted minor child.[36]

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[34] Act of May 5, 1911, P. L. 177, Sec. 1.

*(Note: Under the early law parents might bind out their children by indenture to earn a trade, etc., etc. *The Act of 1927*, P. L. 961 cited below, repeals these earlier laws. The mother has the same right in that respect as the father, or the duly appointed guardian.)

[35] Act of May 13, 1925, P. L. 638, Sec. 1, amending the Act of June 26, 1895, P. L. 316, Sec. 1.

[36] Act of April 18, 1923, P. L. 75, Sec. 4.

3. Marriage of Minors

Minors are subject to the ordinary laws relating to marriage.*

In addition, the marriages of minors are subject to certain special acts. In particular, the Clerk of the Orphans' Court shall inquire of the parties relative to the legality of the contemplated marriage, the age of the parties, the consent of parents or guardian of such as are under the full age of twenty-one years, and any prior marriage or marriages, and its or their dissolution. If the persons intending to marry are under twenty-one years of age, the consent of the parents or guardian must be personally given before the Clerk, or certified under the hand of such parent or guardian, attested by two adult witnesses, and the signature of such parent or guardian shall be properly acknowledged before a notary public or other officer competent under the law to receive acknowledgments. When any such minor has no guardian and the judge of the Orphans' Court is absent or not accessible for any reason, the Clerk of the Orphans' Court, or a duly appointed assistant clerk of said court, may appoint for such a minor a guardian for this particular purpose.[37]

It is further provided after October 1, 1927, no licenses to marry shall issue, if either applicant therefor is under the age of sixteen years; provided, that a judge of the Orphans' Court shall have discretion to authorize a license to be issued by the clerk of the Orphans' Court in special cases where one or both persons are under the age of sixteen years.[38]

B. Illegitimates

The customary form of court procedure where an illegitimate child has been born is a criminal prosecution of the reputed father of the child, charging him with an offense known as fornication and bastardy, and seeking to secure a court order upon him for the payment of certain money for the education and maintenance of the child.

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*(Note: The following section should be read in connection with Chapter VI on "Marriage, Divorce, and the Rights of Married Persons.")

[37] Act of May 28, 1915, P. L. 636, Sec. 1, amending part of Sec. 3, Act of June 23, 1885, P. L. 146.

[38] Act of March 24, 1927, P. L. 64, No. 44 Sec. 1.

Illegitimate children shall take and be known by the name of their mother and the mother and her heirs and her illegitimate child and its heirs shall be mutually liable one to the other and shall enjoy all the rights and privileges one to the other as if the child had been born in lawful wedlock.[39]*

Illegitimate children, when the father and the mother of the children marry and co-habit, become legitimatized and enjoy all the rights and privileges of legitimate children. The law provides that it does not legalize marriages or legitimate children where the parents are within the degrees of consanguinity.[40]

The husband of the mother of illegitimate children is not responsible for their support unless he has adopted them. The mother and father of such illegitimate children are alone liable for their support.

Any person convicted of fornication shall be sentenced to pay a fine not exceeding a hundred dollars to the guardians, directors or overseers ofthe poor of the city, county or township where the offense was committed, for the use of the poor. Any single or unmarried woman having a child born shall be convicted of fornication, and the man charged to be the father upon conviction shall be sentenced to pay the expense incurred at the birth of the child, and to give security in such sum as the court shall direct to the guardians, directors, or overseers of the poor of the city, county, or township, where such child was born, to perform the court's order for maintenance of the child. The prosecution of the reputed father of the child shall be in the county where the child was born, irrespective of where the offense was committed.[41]

Any parent who shall wilfully neglect or refuse to contribute reasonably to the support and maintenance of an illegitimate child, shall on conviction be fined not exceeding five hundred dollars, or imprisonment, not exceeding six months, or both, with or without hard labor.[42]

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[39] Act of July 10, 1901, P. L. 639, Sec. 1.
*(Note: See Thompson vs. D. L. & W. R. R. 41 Super. Ct. 617.)
[40] Act of April 6, 1868, P. L. 67, Sec. 1, Act of May 14, 1857, P. L. 507, No. 567.
[41] Mar. 31, 1860, P. L. 382, Secs. 37 and 38.
[42] Act of July 11, 1917, P. L. 774, Sec. 1.

Proceedings may be instituted by the parent of an illegitimate child. They must be brought within two years of the birth of the child, provided, that where the reputed father has voluntarily contributed to the support of the child, or acknowledged in writing its paternity, then a prosecution may be brought at any time within two years of such contribution or acknowledgment. The act applies whether the child was born within or without the state.[43]

The court has discretion, having regard to the circumstances and to the financial ability and earning capacity of the defendant to make an order subject to change from time to time as circumstances may require, directing the defendant to pay a certain sum periodically for such time and to such person as the court may direct and to suspend sentence, and to release the defendant from custody on probation, provided the defendant has signed a recognizance for compliance for such order.[44]

Parents supporting illegitimate children under order of court made in any other proceedings, civil, criminal, or quasi criminal, shall not be subject to fine and imprisonment under this act for the child, unless they fail to obey such court order.[45]

Making false statements as to the parentage of the child shall be perjury.[46]

C. Minor's Rights and Disabilities in General

When a decedent dies, leaving to survive him any minor child or children, forming part of his family and no widow, the administrator or executor shall set aside without request by anyone for the benefit of the children property to the full value of five hundred dollars.[47]

Minors that have attained the age of eighteen years may make the necessary contracts to become members of mutual life

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[43] Act of July 21, 1919, P. L. 1075, amending Sec. 2, Act of July 11, 1917, P. L. 774.
[44] Act of July 11, 1917, P. L. 774, Sec. 4, No. 290.
[45] Act of July 11, 1917, P. L. 774, Sec. 5.
[46] *Ibid.*, Sec. 6.
[47] Act of 1917, P. L. 447, Sec. 12.

insurance companies, organized and doing business under the laws of this state.[48]

Minors who have attained the age of sixteen years of age may make all necessary contracts and assume all needful obligations to become members of fraternal benefit societies.[49]

Banks may permit minors without any assent or approbation of the parent or guardian to withdraw money on application desired by them, and it shall not be lawful for the parent or guardian of the minor to attach or interfere in any manner with any deposit, interest or dividend thereon to such minor.[50]

Apparently the law permits minors under the age of sixteen years to trap for fur-bearing animals or vermin without a license. But it makes it unlawful for any minor (a) under the age of fourteen to receive a hunting license; (b) under the age of sixteen years to receive a hunting license without presenting a written request therefor signed by the father, mother or legally constituted guardian; (c) under the age of sixteen years to use fire-arms of any kind for hunting, unless accompanied by a person twenty-one years or over, unless the hunting is done on the premises on which the person resides.[51]

Residents under the age of fourteen years may take rabbits not exceeding the bag limits provided by this act, through the use of box-traps during the open season upon the lands whereon such persons reside, if visited at least once every thirty-six hours.[52]

All persons over eighteen years of age must secure a fishing license, but it appears that citizens of Pennsylvania under eighteen years need not secure such a license.[53]

Minors over the age of sixteen years may secure a license to drive motor vehicles if the Commissioner is satisfied that the

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[48] Act of May 17, 1921, P. L. 682, Sec. 430.
[49] Act of May 20, 1921, P. L. 916, Sec. 7. Also Act of April 7, 1927, P. L. 177, Sec. 1.
[50] Act of May 15, 1874, P. L. 193, Sec. 1.
[51] Act of May 24, 1923, P. L. 359, Sec. 311.
[52] Act of May 24, 1923, P. L. 359, Clause C, Sec. 703.
[53] Act of May 16, 1921, P. L. 559, as amended by the Act of May 24, 1923, P. L. 423. See also Act of July 8, 1919, P. L. 778.

applicant is sixteen years and is a proper person, and further, provided he or she passes the customary tests.[54]

Infants and persons found by inquisition to be of unsound mind may not be arrested for non-payment of taxes.[55]

D. Adoption

Adoption of minors is a legal proceeding jurisdiction for which is now conferred upon the Orphans' Courts of the various counties of Pennsylvania.[56] The Municipal Court also has jurisdiction in adoption proceedings in Philadelphia County, although there exists some confusion as to whether this power has, or has not, been revoked.[57]

The procedure for adoption is by petition to the court of the county in which the adopting parent, or parents may be resident, declaring the desire to adopt and stating that he or she will perform all the duties of a parent to such child. The petition also sets forth the name, age, the date and place of birth of the person to be adopted; the name, residence, and marital status of the adopting parent or parents; the name and place of residence of the maternal parents; or of the surviving parent, or of any other person whose consent to the proposed adoption is necessary. The persons whose consent is necessary must sign the petition or assent thereto in writing. If the person to be adopted is over twelve years of age his or her consent is necessary, and also that of his or her husband or wife, if any. Consent is also necessary of the adopting parent's husband or wife, unless they jointly adopt. Consents should also be obtained of the parents or surviving parent, except in the case of an illegitimate child when the consent of the mother only is necessary unless the father has acknowledged the child. The consent of a parent who has been adjudged a lunatic, or habitual drunkard, or who has abandoned the child is unnecessary, provided the fact is produced in court. If the person to be adopted has no father

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[54] Act of June 14, 1923, P. L. 718, Sec. 8, amending Sec. 10, Act of June 13, 1919, P. L. 678.

[55] Act of April 15, 1834, P. L. 509, Secs. 21, 35 and 45, as amended by Act of May 8, 1923, P. L. 169.

[56] Act of April 4, 1925, P. L. 127.

[57] Act of July 11, 1923, P. L. 1035, Sec. 1.

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or mother living, or whose consent is necessary then consent must be obtained from the legal guardian, if any, and of the person or persons having the legal custody of the child, if any such person can be found.

At the hearing in court the adopting parent or parents must appear, and also the person to be adopted and also all the persons whose consent is necessary. The personal appearance of the natural parents, or of other persons whose consent is necessary, may be dispensed with at the direction of the court. The court may hear other testimony and may make an investigation as to the proof of the facts.

If the petition is granted, the decree sets forth that the adopted child has all the rights and is subject to all the duties of a child and heir of the petitioner. It may also provide that the person adopted may assume the name of the adopting parents.

The adopted person and the adopting person or persons shall respectively inherit and take by devolution from and through each other personal estate as next of kin and real estate as heirs as fully as if the person adopted had been born a lawful child of the adopted parents. The adoptive relatives of the person adopted shall inherit through such adopted person, to the exclusion of his or her natural parents, grandparents and collateral relatives. Adopted persons shall not be entitled to inherit or take from or through their own maternal relatives.[58]

When the court shall award a dependent child to the care of any association or individual the child shall, unless otherwise ordered, become a ward and subject to the guardianship of the association or individual, and such guardian may place the child in a family home with or without indenture, and be made a party to adoption proceedings to give its assent to such adoption. This consent shall be sufficient to authorize the court to enter the proper decree of adoption. This does not include guardianship of the estate of the child.[59]

E. Guardian and Ward

Jurisdiction is given to the Orphans' Courts of the various counties of Pennsylvania for the appointment, control, removal

[58] Act of June 7, 1917, P. L. 429. Sec. 16 a and b.
[59] Act of April 23, 1903, P. L. 274, Sec. 5.

and discharge of the guardians of minors and the settlements of their accounts.[60]

The procedure for the appointment of guardians for the estates of minors consists of a petition to the Orphans' Court requesting that the guardian be appointed and indicating specifically the nature and extent of the estate to be held by the guardian. If the minor is over fourteen years of age he is permitted to appear in court and select his own guardian. In appointing guardians the court will give preference to persons of the same religions persuasion, but will appoint an administrator, executor or trustee to be at the same time guardian of the estate of a minor having an interest in the estate under the care of such fiduciary. This, of course, does not affect in any way the case of a testamentary guardian, *i. e.*, one appointed by will. The Orphans' Court will not appoint the father or mother of a minor as guardian of his estate, but this does not affect the case of a testamentary guardian. Where the estate of a minor is valued at a hundred dollars or less the court may authorize the payment of the estate to the natural guardian of the minor, or the person by whom the minor is maintained, without the appointment of a guardian by the court or the entry of security.

The jurisdiction of the court to appoint guardians over estates extends where the estate is in the jurisdiction of the court although the proposed guardian may not be.

The court may require a bond with sufficient corporate security, or with two good and sufficient individual securities from the guardian. The terms of this bond are that the guardian will make an accounting of his estate at least once in every three years and faithfully perform the duties of the guardian.

The procedure of handling the estate of a minor and the filing of an account is of a complicated nature too extensive for inclusion in such a book as this. For the powers of guardians, the removal of guardians, investments to be made by guardians, reference should be made to the various sections of the Act of June 7, 1917, P. L. 447, referred to in an earlier note.

The appointment of a guardian by will is only a customary

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[60] Act of June 7, 1917, P. L. 363, Secs. 9, 31, 37, 42, 53, 54, 41, as amended by Sec. 1, Act of June 29, 1923, P. L. 955, 55, 58, 59.

procedure. The most recent law on the subject provides that every person competent to make a will being the sole surviving parent or adopting parent of any minor child, unmarried, may appoint a testamentary guardian of the person, or property, or both, for such child during his or her minority or for any shorter period. Either parent may appoint a testamentary guardian for the estate which he or she shall leave to the child, whether the other be living or dead.[61]

The third type of guardianship for the estates of children exists where the estate goes to the child not by virtue of a will or inheritance, but by a direct agreement between living persons by deed or otherwise. In such cases the guardianship proceedings are under the control of the Court of Common Pleas.[62]

II. PROTECTION AND WELFARE

F. Education*

The general law of Pennsylvania with reference to education of children is the School Code of 1911.[63]

1. Pupils and Attendance, Transportation

Every child who is a resident of any school district in the state between the ages of six and twenty-one years of age may attend the public school in his district, subject to the provisions of the act. The residence of the child is determined in the first instance by the residence of the parents or guardian of his

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[61] Act of May 13, 1925, P. L. 689, Sec. 1, amending Act of June 7, 1917 P. L. 403, paragraph 8, clause A. See also Act of June 11, 1879, P. L. 142, Sec. 7, for the appointing of guardians for children where the persons charged with their custody are convicted of a violation of the laws protecting children from cruelty.

[62] Act of June 14, 1836, P. L. 630, Sec. 18.

[63] Act of May 18, 1911, P. L. 309.

*(Note: References are to the Act of 1911 unless otherwise specified. This has been extensively amended. In 1925 and 1927 no fewer than fifty separate amendments are to be found. It is not feasible here to do more than discuss some of the oustanding points and refer the interested reader directly to the act as amended.

person. This includes children of school age supported either in the home of a resident of a school district as if the child were his own. A non-resident child placed in the home of a resident of any school district by any court order, or by arrangement with an association, agency, or institution, having the care of neglected and dependent children, shall attend the school district in which he is placed,[64] but certain duties are required of such association, agency, or institution before placement.

The admission of beginners to public schools is generally confined to the first two weeks of the annual school term, and the first two weeks of school following the first day of January in any school year. The Board of School Directors may fix other periods for admission. The term "beginners" means any child that can enter the lowest grade of the primary school, or the lowest primary class.[65]

Provision is made for the attendance of residents in one district in schools of adjacent districts by sub-dividing the districts for the convenience of pupils and for the consolidation of schools.[66]

Provision is made for free transportation of pupils from home to school where the child's residence is remote from the school, and for the computation of the distance the pupil has to travel as a basis for providing such free transporattion.[67]

Teachers during the attendance of pupils and during the time they are going to and from their homes shall have the right to exercise the same authority as to the conduct and behavior of their pupils attending their schools during the time they are in attendance, as the parents, guardians, or persons in parental relation to such pupils may exercise over them.[68]

A principal or teacher of a public school may temporarily suspend a pupil because of disobedience or misconduct. Notice of this suspension must be sent to the district superintendent, supervising principal, or secretary of the board of school directors, who will then proceed to act on the matter.[69]

[64] *Ibid.*, Sec. 1402, as amended by Act of April 30, 1925, P. L. 378, Sec. 1.
[65] *Ibid.*, Sec. 1403.
[66] *Ibid.*, Secs. 1403, 1404, 1405, as amended by the Act of May 13, 1925, P. L. 628, Sec. 1.
[67] *Ibid.*, Secs. 1406, 1408, 1409, as amended by the Act of May 13, 1925, P. L. 628, Sec. 2.
[68] *Ibid.*, Sec. 1410.
[69] *Ibid.*, Sec. 1411.

The Board may after a proper hearing suspend such child for such time as it may determine, or may permanently expel him. The hearing, suspension, or expulsion, may be delegated to a duly authorized committee of the Board.

Children who are inmates of institutions for the care of children may be permitted to attend public schools in the district in the discretion of the Board of School Directors.[70]

Compulsory school attendance is required of every child having a legal residence in the state between the age of eight and sixteen years, in a day school in which the common English branches required by this act are taught in the English language, and such child shall attend the school continuously through the entire term during which the public elementary school in the respective district will be in session. The principal or teacher of a private school, or of any institution for the education of children may issue a certificate setting forth that the work of the school is in compliance with the provisions of the act. The county and district superintendent of schools shall determine whether regular, daily instruction in the English language given by properly qualified private tutors shall be regarded as complying with the provisions of the law. The Board of School Directors in any fourth-class district may reduce the period of compulsory attendance for pupils twelve years of age or more to not less than seventy per cent of the school term.[71]

Children may be excused from attending school for mental, physical, or other urgent reasons, but the term "urgent" must be strictly construed.[72]

There are exceptions to the rule of compulsory school attendance. The law does not apply to any child between the ages of fourteen and sixteen years who has completed a course of study equivalent to six yearly grades of the public school who is engaged in any useful or lawful employment or service during the

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[70] *Ibid.*, Sec. 1412, as amended by the Act of May 9, 1913, P. L. 192 and May 20, 1921, P. L. 978, and the Act of May 1, 1925, P. L. 438, Sec. 1.

[71] *Ibid.*, Sec. 1414, as amended by the Acts of April 18, 1919, P. L. 58, and July 21, 1919, P. L. 1084, and Acts of 1925, P. L. 76 and 131.

[72] *Ibid.*, Sec. 1415.

time the public schools are in session, and who holds an employment certificate issued according to law. Other exceptional cases are children between the ages of fourteen and sixteen years engaged in farm work or domestic service in a private home on a permit written by the school board or the designated school officer of the school district of the child's residence.[73]

Exemption from compulsory attendance is allowed if there is no public school in session within two miles by the nearest traveled road of the residence of the child, unless proper free transportation be furnished to the child to and from school.[74]

The penalty for failure to comply with compulsory attendance shall be a fine imposed upon the parents, guardian, or person in parental relation to the child not exceeding two dollars for the first offense, and not exceeding five dollars for each subsequent offense, together with costs, and in default of payment, the defendant shall be sentenced to the county jail for a period not exceeding five days. Appeal is allowed to the Court Quarter Sessions within five days upon entering bond in double the amounts of penalty and costs. Three days' written notice are to be given by the Superintendent of Public Schools, supervising principal, attendance officer, or Secretary of the Board of School Directors, of such violation, and if, after such notice has been given, the provisions of the law are again violated by the persons so notified at any time during the term of compulsory attendance the person so offending shall be liable without notice.[75]

Absence of children from school is to be reported by the principal or teacher, Superintendent of Schools, supervising principal, or Secretary of the Board, and if in three days thereafter the individuals fail to comply with the provisions of the act, they shall be proceeded against.[76]

Compulsory employment of attendance officers in school districts of the first, second and third classes is provided, and the

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[73] *Ibid.*, Sec. 1416, as amended by Sec. 1 of the Act of May 20, 1921, P. L. 1034, No. 373, Sec. 1.
[74] *Ibid.*, Sec. 1418, as amended by the Act of May 13, 1925, P. L. 628, Sec. 5, and the Act of Mar. 29, 1927, P. L. 75.
[75] *Ibid.*, 1423.
[76] *Ibid.*, 1428.

school districts of the fourth class may employ them. The duties of these officers are to enforce the provisions of the law relating to compulsory attendance, and they have the power without warrant to arrest or apprehend any child who fails to attend school in compliance with this act, or who is incorrigible, insubordinate, or disorderly during attendance at school, or to and from school.[77]

Notice by the attendance officer shall be given to the parents, guardian, or person in parental relation to the child upon the arrest of the said child for non-attendance. The attendance officer, unless requested by the parent or guardian to place the child elsewhere, shall place the child in the public school in which he is or shall be enrolled.[78]

The attendance officer has the power and authority to enter during business hours any place where children are employed to ascertain whether or not any child is engaged there who should be in school, and he may demand and inspect the employment certificate of any child.[79]

The penalty for interfering with the attendance officer is a fine of not less than five dollars and not more than twenty-five dollars, and in default of payment, imprisonment not exceeding thirty days.[80]

2. The State Supervising System

The State of Pennsylvania is divided into school districts of four classes depending upon population, the fourth class having less than 5,000, the third over 5,000 and less than 30,000, the second over 30,000 and less than 500,000, and the first in excess of 500,000 population. The school system is administered by a board of directors in each district. The school directors are elected by popular vote except in districts of the first class (Philadelphia and Pittsburgh), where they are appointed by the judges of the Court of Common Pleas. In the event that an independent district is established the court establishing the district shall appoint directors. These directors must be citizens

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[77] *Ibid.*, 1432.
[78] *Ibid.*, Sec. 1433.
[79] *Ibid.*, Sec. 1434.
[80] *Ibid.*, Sec. 1435.

of Pennsylvania, having a good moral character, being twenty-one years of age, or upwards, and having been residents of the district for at least one year prior to the date of election or appointment. Persons holding certain specified offices such as mayor, district attorney, city councilman, are not eligible. Persons who have been removed from office for malfeasance are also ineligible. The elections are so arranged that every two years there are vacancies in the board to be filled.

The law specifies that in school districts of the first class the year shall begin the first day of January, and in other districts on the first Monday of July. The school directors are required to meet and organize, at which time they elect various officers of whom the president, treasurer and secretary are particularly important.

The duties of the boards of school directors are to establish, equip, furnish and maintain a sufficient number of elementary public schools, to educate every person residing in such districts between the ages of six and twenty-one years who may attend. They are permitted to establish, equip, furnish, and maintain the following additional schools or departments for the education and recreation of persons residing in the district, namely, high schools, manual training schools, vocational schools, domestic science schools, agricultural schools, evening schools, kindergarten schools, libraries, museums, reading-rooms, gymnasiums, playgrounds, schools for blind, deaf, and mentally deficient, truant schools, parental schools, schools for adults, public lectures, together with such other schools or educational departments as they, in their wisdom, may see proper to establish.

They may adopt and enforce such reasonable rules and regulations as they may deem necessary and proper, regarding the management of school affairs and the conduct and deportment of all superintendents, teachers, and other appointees or employees during the time they are engaged in their duties to the district, as well as regarding the conduct and deportment of all pupils. They may also adopt and enforce such reasonable rules and regulations as they may deem proper regarding the management, control, or prohibition of exercises, athletics, or games of of any kind, taken part in or played by any pupils as members of or in connection with any public school, and regarding the organ-

ization, management, supervision, control, or prohibition of school publications, and of organizations or societies of the members of any class or school, and may provide for the suspension, dismissal, or other reasonable penalty in the case of any superintendent, teacher, appointee, employee, or pupil who violates any of such rules and regulations.

They are required to provide buildings and to furnish and equip them, providing for the heating, ventilating and sanitary conditions thereof.

They are required to purchase all proper equipment, textbooks, and school supplies necessary.

For the purpose of co-ordinating the work provision is made for annual meetings of school directors to be called together by the county superintendent.

To co-ordinate the work further there is provision for a state council of education consisting of six members, one of whom goes out of office each year, and the Governor annually appoints a member to fill the vacancy. The Chairman of the Council of Education is the Superintendent of Public Instruction. He is a constitutional officer, the head of the Department of Public Instruction and appointed by the Governor. The responsibility of the council is to recommend all necessary legislation; to equalize, through special appropriations for this purpose, or otherwise, the educational advantages of the different parts of the Commonwealth; to inspect and require reports from the schools and institutions; to encourage and promote vocational education, particularly in the fields of agriculture, manual training and domestic science; to provide legislation for the sanitary equipment and inspection of school buildings, and to promote the physical and moral welfare of the children.

The Superintendent of Public Instruction shall have supervision over all the public schools of the Commonwealth. He shall require annual district reports and have the incidental powers necessary to accomplish his general work. In each district there are to be for the purposes of superintendence and supervision county and district superintendents and assistant superintendents. These are elected every four years. In districts of the first class the Superintendent of Schools may be elected for a term of six years.

The Board of School Directors in every district employs the necessary qualified teachers. Every teacher must hold a provisional or state certificate which shall set forth the branches which its holder is entitled to teach. These are issued by the State Superintendent of Public Instruction as a result of graduation from a normal school, graduation from a college in which certain units of pedagogical work have been taken, or by passing examinations held under conditions satisfactory to the State Superintendent of Public Instruction. A person holding a provisional certificate may teach for three annual school terms.[81] Persons who have taught successfully under the supervision of any district or county superintendent in the state for not less than two full school terms may have professional certificates which shall be valid for three years. State certificates may be issued after further examinations to those who have held provisional certificates for two years or longer.

State certificates include permanent state certificates, state normal school certificates, state normal school diplomas, provisional college certificates, permanent college certificates.

3. High Schools and Junior High Schools

There are three classes of high schools. Class I maintains four or more years of study of not less than nine months of each year. Class 2 maintains three years' courses of study of not less than eight months of each year. Class 3 consists of all schools maintaining only two years' course of study. The class is determined by the length of the course. The law further provides for the admission of children to high schools of other districts than the ones in which they reside, and for attendance at the more convenient high schools.

4. Special Schools

The Department of Public Instruction has the power and its duty shall be to administer the laws relating to vocational and industrial education, agricultural education and household arts education, and to establish schools for these purposes, and for deaf, dumb and blind children.[82]

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[81] *Ibid.*, Sec. 1316, as amended by Act July 17, 1919, P. L. 996, Sec. 1.
[82] Act of June 7, 1923, P. L. 498, Sec. 1303.

State supervision over all public schools is given to the Department of Public Instruction. In addition to elementary schools, particular types of schools may be established.[83]

Provision is also made for the establishment of industrial, agricultural and household arts, schools or departments,[84] for classes in vocational schools for non-resident pupils and for free evening schools in districts of the second, third or fourth class;[85] for evening manual training schools in districts of the second and third class,[86] for the qualifications of teachers of evening schools,[87] for assistance to kindergartens,[88] and for agricultural schools in any school district.[89]

Pupils of less than six years or more than twenty-one years of age may be admitted to special schools.[90]

Persons having tuberculosis of the lungs are excluded from a public school unless it be a special school conducted under the regulations made for such school by the Commissioner of Health.[91] The school district may supply the necesssary food, clothing and transportation for attendance.[92]

Attempt to secure equalization of educational opportunity and the encouragement of the study of citizenship by recognition of extension education, for boys and girls who are employed and for adults, as a function of the public schools of this Commonwealth has been made only to a very meager degree.

5. Attendance at Motion Picture Theatres During School Hours

Owners, proprietors, lessees, or agents of motion picture theatres, during the term of compulsory attendance at public schools and during the hours and days such schools are in session, are prohibited from allowing any child between eight and

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[83] Act of May 18, 1911, P. L. 309, Sec. 401, as amended by the Act of May 24, 1921, P. L. 1066, Sec. 1.
[84] Act of May 1, 1913, P. L. 138, as amended by the Act of May 1, 1925, P. L. 418.
[85] Act of May 18, 1911, P. L. 309, Sec. 1901, as amended by Act of April 7, 1925, P. L. 159, Sec. 1.
[86] *Ibid.*, Sec. 1902.
[87] *Ibid.*, Sec. 1903.
[88] *Ibid.*, Sec. 1904.
[89] *Ibid.*, Sec. 1905.
[90] *Ibid.*, Sec. 1906.
[91] *Ibid.*, Sec. 1509.
[92] Act of May 27, 1919, P. L. 309.

fourteen years of age to enter such moving picture theatre unless accompanied by one or both parents or other responsible adult, or unless the child presents a permit from the teacher. The penalty is a fine of ten dollars for the first offense and twenty-five dollars for every subsequent offense, and in default of payment of fine and costs, a jail sentence of one day for each dollar of fine and costs imposed.[93]

The School Code has been amended so extensively in the last two sessions of the legislature that reference in all cases should be had to the pamphlet laws of 1925 and 1927. Only in this way can there be accuracy in the matter of detail.

G. Health and Sanitation

1. School Medical Inspection and Hygiene

In school districts of the first, second, or third class, there shall be annual medical inspection of all pupils by proper medical inspectors.[94] The inspection is to be made in the presence of the parent or guardian of the pupil when so requested by the parent or guardian. Only physicians who have had at least two years' experience in the practice of medicine may perform these services. In districts of the fourth class, the State Department of Health shall have charge of the medical inspection.[95]

The medical inspectors shall annually inspect, test and examine the pupils, giving special attention to defective sight, hearing, teeth or other disabilities and defects specified by the Commissioner of Health in his direction for medical examinations. The medical inspector shall receive reports concerning all pupils found to need medical or surgical attention and give careful directions concerning the care of each pupil who needs special care while in school. The teacher or principal or district superintendent shall notify the parents or guardian.[96]

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[93] Act of July 8, 1919, P. L. 777, Sec. 1.

[94] Act of May 18, 1911, P. L. 309, Sec. 1501, as amended by the Act of May 20, 1921, P. L. 939, Sec. 1.

[95] Act of May 18, 1911, P. L. 309, Sec. 1503, as amended by the Act of July 17, 1919, P. L. 997, Sec. 3, and the Act of June 23, 1919, P. L. 572, Sec. 2. See also Sec. 1505 of the Act of May 18, 1911, P. L. 309, as amended by Act of July 17, 1919, P. L. 997, Sec. 4, and Act of June 23, 1919, P. L. 572 and Act of May 20, 1921, P. L. 939, No. 329, Sec. 1.

[96] Act of July 17, 1919, P. L. 997, as amended by Act May 20, 1921, P. L. 939, No. 329, Sec. 1.

The School Code provides for an annual physical examination of pupils, in first-, second- and third-class districts,[97] where the work is done and paid for locally, but while it provides that in districts of the fourth class[98] the school medical inspection will be provided by the State Health Department, it is not specified that in those districts the medical examinations must be made annually. The children in the country districts, therefore, are not given assurance of an annual examination.

Persons afflicted with tuberculosis of the lungs are prohibited from attending public schools unless it is a special school for the purpose, as previously stated.[99]

Compulsory attendance shall not apply to pupils who are sick.[100]

The school district may provide for the care and treatment for defective eyes and teeth of all pupils of its public schools.[101]

School nurses who are graduates of reputable training schools for nurses, may be employed by Boards of School Directors.[102]

2. Blindness of Children, Prevention of Ophthalmia Neonatorum

The physician shall report to the health authorities or to the State Department of Health, the names of all infants suffering from inflammation of the eyes.[103] Midwives and nurses must make a similar report.[104] The health authorities must notify the parents upon the receipt of the report,[105] and the physician must report to the Commissioner of Health after treating such infants' eyes.[106] The penalty for violation of this law is a fine not less than twenty dollars or more than one hundred dollars and costs, or imprisonment for not less than ten or more than thirty days, or both.[107]

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[97] Act of May 20, 1921, P. L. 939, No. 329, Sec. 1.
[98] Act of July 17, 1919, P. L. 997, Sec. 3.
[99] Act of May 18, 1911, P. L. 309, Sec. 1509.
[100] *Ibid.*, Sec. 1510, and Sec. 1415.
[101] *Ibid.*, Sec. 1511, as amended by the Act of July 17, 1917, P. L. 1032.
[102] *Ibid.*, Sec. 1508.
[103] Act of June 5, 1913, P. L. 443, Sec. 1.
[104] *Ibid.*, Sec. 2.
[105] *Ibid.*, Sec. 3.
[106] *Ibid.*, Sec. 4.
[107] *Ibid.*, Sec. 6.

3. Communicable Diseases

The following diseases are specifically declared to be communicable:—Actinomycosis, anterior poliomyelitis (infantile paralysis), anthrax, bubonic plague, cerebrospinal meningitis (epidemic), cerebrospinal fever (spotted fever), chicken pox, Asiatic cholera, diphtheria (diphtheritic croup, membranous croup, putrid sore throat), epidemic dysentery (bacillary or amebic dysentery), erysipelas, German measles, glanders (farcy), rabies (hydrophobia), impetigo contagiosa, leprosy, malarial fever, measles, mumps, pellagra, pneumonia (true), puerperal fever, relapsing fever, scabies, scarlet fever (scarlatina, scarlet rash), smallpox (variola, varioloid), tetanus, trachoma, trichiniasis, tuberculosis in any form, typhoid fever, para typhoid fever, typhus fever, uncinariasis, whooping-cough, or yellow fever.

The Department of Health may, when it deems it necessary to safeguard human life and health, declare as communicable diseases additional to those hereinbefore specifically so declared.[108] (See also Chapter VIII on Public Health.)

Physicians who treat and examine persons suffering from communicable diseases, shall make reports to the proper health authorities upon such facts as may be required by the health authorities. Upon receipt of the report, the health authorities shall placard the premises, creating a quarantine, and if necessary, place a guard or guards over the house in which the patient is.[109]

The duration of the placarding shall be until the expiration of the quarantine period fixed by the local health authorities and the Department of Health, the recovery, death or removal of the persons affected, and disinfection of clothing and places. The destruction or disinfection of infected articles is subject to regulation of the health authorities.[110] The Department of Health has the right to determine the duration of the quarantine for each disease.[111]

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[108] Act of June 28, 1923, P. L. 888.
[109] *Ibid.*, Sec. 2.
[110] *Ibid.*, Sec. 3.
[111] *Ibid.*, Sec. 4.

A registry of excluded children shall be kept by all the schools,[112] the Department of Health, or boards of health, supplying all necessary blanks,[113] and the schools shall receive daily notices furnished by the health authorities of the persons suffering from quarantinable diseases.[114]

The local health authorities have the right to establish additional rules regarding the isolation and quarantine of persons and the disinfection of articles and places.[115] It is the duty of the secretary of the board of health,[116] or health officer, to make weekly reports. Tampering with the placards, violating the quarantine, interfering with the health officer, or violating the regulations is an offense punishable by a fine of not more than one hundred dollars and costs, or imprisonment of not less than ten or not more than thirty days, or both.[117]

4. Vaccination

It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private' parochial or other school, to refuse the admission of any child except upon a certificate signed by a physician, setting forth that such child has been vaccinated, or that such child has previously had smallpox. The penalty for violating this law is a fine not less than five dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days in default of payment.[118]

5. Midwives

Midwives are licensed by the Bureau of Medical Education and Licensure.[119] The certificate shall be registered by the prothonotary of the county in which the holder decides to

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[112] *Ibid.*, Sec. 5.
[113] *Ibid.*, Sec. 6.
[114] *Ibid.*, Sec. 7.
[115] Act of June 28, 1923, P. L. 888, Sec. 8.
[116] Act of March 24, 1927, P. L. 60, amending Sec. 9 of Act of June 28, 1923, P. L. 888.
[117] Act of March 24, 1927, P. L. 60, amending Sec. 10 of Act of June 28, 1923, P. L. 888.
[118] Act of June 15, 1919, P. L. 399, amending sections 12 and 21 of the Act of June 18, 1895, P. L. 203.
[119] Act of June 5, 1913, P. L. 441.

practise. The bureau is authorized to establish proper rules and to refuse a certificate to any person addicted to the use of alcohol or narcotic drugs, or who may have been guilty of a crime involving moral turpitude. The penalty for practising midwifery or advertising the profession without a certificate is a fine of not less than ten dollars nor more than fifty dollars or imprisonment in the county jail not less than ten nor more than sixty days or both, on the first conviction. On a second conviction both the fine and imprisonment shall be imposed. The term midwife as used applies to those who practise gratuitously or for hire. It is lawful for anyone licensed under the Medical Act to perform the function of a midwife.[120] It is also lawful for medical students under supervision to practice. Midwives, however, are prohibited from practising medicine, and a penalty of not less than ten or more than fifty dollars or imprisonment in the county jail not less than ten days or more than two months, or both fine and imprisonment is prescribed. Upon a third conviction the license is forfeited.[121]

The license of midwives in cities of the first class is provided for as is also the adoption of rules and regulations by the Department of Welfare.[122]

6. Lying-in Hospitals

Provision is made for the licensing of lying-in hospitals and the report of a birth of a child. The penalty for keeping such a hospital without license shall be a fine not exceeding one hundred dollars for the first offense, and upon second offense, by a fine not exceeding two hundred dollars and imprisonment not more than one year, or either or both.[123]

7. Vital Statistics

The State Department of Health is charged with the the responsibility of registering births, deaths, marriages and diseases.[124]

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[120] Act of June 5, 1913, P. L. 441, Secs. 6 and 7.
[121] Act of June 14, 1911, P. L. 928, Secs. 11 and 12.
[122] Act of April 27, 1909, P. L. 249.
[123] Act of April 26, 1893, P. L. 24.
[124] Act of June 7, 1915, P. L. 900, Sec. 1.

A central Bureau of Vital Statistics is established.[125] Registration districts, [126] local registrars,[127] certificates for use in cases of still-born children, the registration of births by physicians and midwives,[128] the registry of physicians, midwives and undertakers,[129] and the requirement of records of personal and statistical particulars relative to patients in certain institutions are provided for.[130]

The contents and form of the birth certificate are specified,[131] and the blanks, forms and certificates for permanent records shall be supplied by the State Registrar, to[132] all registrars.

The duties of local registrars[133] and their fees are stated.[134]

Certified copies of the record of any birth, death or marriage can be secured from the State Registrar.[135]

Failure to adhere to the requirements of registration is subject to a penalty.[136]

H. THE CHILD LABOR LAW*

Where it applies

With the exception of farm work and domestic service in private homes the Child Labor Law applies to work done by minors in any establishment. Work on industrial processes done in private homes is included.

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[125] Act of April 20, 1921, P. L. 181.
[126] Act of June 7, 1915, P. L. 900, Sec. 3.
[127] *Ibid.*, Sec. 4.
[128] Act of June 7, 1915, P. L. 900, Secs. 6 and 13.
[129] Act o June 7, 1915, P. L. 900, Secs. 16.
[130] *Ibid.*, Sec. 17.
[131] Act of April 20, 1921, P. L. 181, Sec. 2.
[132] Act of May 9, 1923, P. L. 176.
[133] Act of June 7, 1915, P. L. 900, Sec. 19.
[134] Act of May 7, 1927, P. L. 857, amending Act of April 20, 1921, P. L. 181, Sec. 3.
[135] Act of April 28, 1927, P. L. 498, amending Act of June 7, 1915, P. L. 900, Sec. 21.
[136] Act of June 7, 1915, P. L. 900, Sec. 22.

* The employment of Children in Pennsylvania, a digest of the Child Labor Law and Regulations of the Department of Labor and Industry that affect the employment of minors. Published by the Commonwealth of Pennsylvania, Department of Labor and Industry and Department of Public Instruction, June 1927.

Who enforces it

The Child Labor Law places the duty of enforcement on the Secretary of Labor and Industry, the attendance officers of the various school districts, and the local police. However, by informal agreement between the Department of Labor and Industry and school officials, the Department of Labor and Industry has its dealings primarily with the employer; and the school officials with the minor and his parents.

The power to make further regulations

The Department of Labor and Industry has the power to prohibit occupations dangerous to the life or limb, or injurious to the health or morals of minors under 18.

1. Who May Work

In an establishment

No child under 14 years of age may be employed at any time either when schools are in session or during school vacations.

Children between 14 and 16 years of age may be employed provided they have the proper employment certificates and attend continuation school.

Minors between 16 and 18 years of age may be employed provided they have the proper age certificates.

At street trades

No boy under 12 years of age may sell or distribute newspapers or engage in other street trades.

No girl under 21 years of age may engage in street trades.

2. The Necessary Employment Certificates for Children Between 14 and 16 Years of Age

To be employed in any establishment:

For the child who is leaving full-time school

A general employment certificate is necessary.

To get this certificate the child must have:

A promise of employment.

A school record showing completion of the sixth school grade or its equivalent.
A certificate of physical fitness.
A birth certificate or other legal proof of age.

For the child who continues in school and works only when school is not in session—

A vacation employment certificate is necessary.
To get this certificate the child must have:
A promise of employment.
A certificate of physical fitness.
A birth certificate or other legal proof of age.

*To engage in farm work or domestic service in private homes during school hours:**

An emergency permit is necessary. To get this permit the child must have:
A birth certificate or other proof of age.
A school record showing completion of the sixth school grade.
Proof of family's urgent need of his services.

Where the need is permanent, an exemption permit is necessary. The requirements for this permit are the same as those for an emergency permit except that the conditions necessitating the services of the child shall be permanent rather than temporary.

How the child gets an employment certificate:

His parent or the person in parental relation applies for an employment certificate to the issuing officer or the district officer in the district in which the minor resides. The child receives a preliminary blank.

He has the school principal sign the statement that the sixth school grade has been completed.

He has a physical examination made by an approved physician who records the results on the preliminary blank.

He gets a birth certificate or other legal proof of age.

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* School Code as amended, 1921.

He takes the preliminary blank with the proof of age to the issuing officer.

What the employer does with the employment certificate:

The employer receives the employment certificate from the issuing officer through the mail.

He mails the receipt back to the issuing officer within three days.

He files the employment certificate.

When the minor quits the particular job for which the certificate was issued, the employer returns the certificate to the issuing officer by mail within three days.

3. The Necessary Age Certificates for Minors Between 16 and 18 Years of Age

A proof of age card which is secured from an authorized school official is required. The minor gets this card by taking a birth certificate or other legal proof of age to the issuing officer of the school district.

4. Attendance at Continuation School

Every child between 14 and 16 years of age employed during school hours must attend for eight hours each week a continuation school in the school district where he is employed, if one is established. If there is no continuation school in that school district but one in the district where he lives, he must attend there. A continuation school must be established in every school district where 20 or more children are employed on general employment certificates.

5. Hours of Work

Daily and weekly hours

Children between 14 and 16 years of age may not work more than:

9 hours a day
51 hours a week
6 days a week

Time spent in continuation school or in full-time school, shall be considered part of the working day and week.

Night Work

Work after 8 o'clock in the evening and before 6 o'clock in the morning is prohibited for all minors under 16 years of age. This applies to all occupations including street trades.

Work after 9 o'clock in the evening and before 6 o'clock in the morning is prohibited for girls under 21 years of age, except telephone operators over 18 years of age.

Lunch Period

Girls must have a lunch period of at least 45 minutes, except that where the working day is less than 8 hours, the lunch period may be reduced to 30 minutes.

Schedule of hours

The names, and hours of work, of all employes under 16 years of age and a copy of the sections of the Child Labor Law relating to the hours of labor must be kept posted in the rooms where such minors work.

6. Prohibited Occupations

Minors Under 16 Years of Age

Belts:

Adjusting or assisting to adjust any belt to any machinery while in motion.

Working near any hazardous or unguarded belt, machinery or gearing while such equipment is in motion.

Boats:

Working on any boat engaged in the transportation of passengers or merchandise.

Building Trades:

Heavy work.

Coal Dredgers:

Working on coal dredgers.

Machinery:

Operating or assisting in the operation of the following:

Blueprint machines.

Calender-rolls in paper and rubber manufacturing or other heavy powe-r driven rolls.

Corrugating-rolls as used in making corrugated paper or in roofing or washboard factories.
Dough brakes or cracker machinery of any description.
Electrical machinery—dangerous electrical machinery or appliances.
Embossing machines.
Lanston Monotype Casters.
Laundering machinery.
Machine tools, except as apprentice under proper supervision.
Metal or paper-cutting machines.
Paper-lace machines.
Paper-ruling machines.
Power punches or shears.
Printing presses, job or cylinder, operated by power.
Rolling mill machinery.
Stamping machines used in sheet metal, tinware, paper or leather manufacturing, or in washer and nut factories.
Threading, pointing, or nutting machines in the manufacture of bolts and screws.
Washing, grinding, or mixing machinery.
Wire or iron straightening or drawing machinery.

MINES:

Working in any anthracite or bituminous coal mine or in any other mine.

MOTOR VEHICLES:

Operating motor vehicles of any description.

PAINTS AND POISONS:

Manufacturing of paints, colors or white-lead.
Manufacturing or using dangerous or poisonous dyes.
Preparing compositions in which dangerous leads or acids are used.

RAILROADS:

Working on any steam, electric, or other railroad.

SCAFFOLDING:

Working on scaffolding.

TOBACCO:

Stripping, assorting, or manufacturing tobacco.
Working in the cigar industry, except in the packing and banding of cigars.

TUNNELS:

Working in any tunnel.

Minors Under 18 Years of Age

AUTOMOBILE OR AEROPLANE:

Working as chauffeur or pilot.

BOATS:

Pilot, fireman, or engineer upon any boat or vessel.

BRICKS:

Working on horizontal or vertical pug mills.

ELECTRICAL WORK:

Inside electrical wiring and installing or removing electric meters, except for a minor over 16 as assistant to trained electrician over 21, and on low voltage only.

Outside electrical wiring.

Testing electric meters.

ELEVATORS:

Operating and managing passenger or freight elevators and hoisting or lifting machinery.

EXPLOSIVES:

Working in or about any establishment where explosives are manufactured, handled or stored.

HIGHWAYS:

As section hands.

LEAD:

Making or handling mixtures or dry lead compounds.

LIQUORS:

Serving, handling, or care of alcoholic liquors in places where manufactured, sold, dispensed, or stored.

MACHINERY:

Cleaning or oiling machinery in motion.

Operating or assisting in the operation of the following:

Emery wheels or other polishing, buffing, or abrasive wheels, except as apprentice under proper supervision incidental to other work.

Metal plate bending machines operated by power.

Mixing machines in bakeries.

Punch presses, except for a minor over 16 as apprentice under proper supervision.

Wire-stitching machines.

Wood-working machinery (power-driven) except for a minor over 16 as apprentice under proper supervision.

MESSENGER:

Work in public messenger service by any girl.

METAL INDUSTRIES:

Handling bull ladles, containing molten metal.

In or about furnaces, except as water boys.

Working in rolling mills on machines in connection with tool cars and greasers.

MOTION PICTURES:

Working as projectionists, except for a minor over 17 as apprentice.

PITS AND QUARRIES:

In quarries or in the vicinity of explosives used, stored, or handled in connection with quarry operations.

POOL ROOMS AND BOWLING ALLEYS:

In pool rooms and bowling alleys except for minors over 16 in private pool rooms and bowling alleys.

RAILROADS AND RAILWAYS:

Brakemen, firemen, engineer, motorman or conductor.
Call boys.
Section hands.
Switch or gate tending.
Track repairing.

RIVETS:

Heating and passing rivets, except under special conditions for a minor over 16.

TANNERIES:

Work pertaining to the tanning process.

WELDING:

Acetylene or electric welding.

Minors Under 21 Years of Age

LEAD:

Working at stripping corroded lead stacks, dry packing of lead compounds, or repairing of ventilating systems of any lead corroding or oxidizing plant.

LIQUORS:

Working in or in connection with any saloon, or bar-room where alcoholic liquors are sold.

MESSENGER:

Working as a messenger for a telephone, telegraph or messenger company before 6 o'clock in the morning or after 8 o'clock in the evening.

STREET TRADES:

Work at street trades by any girl.

7. STANDARDS FOR SANITATION*

Premises:

Every establishment and its premises must at all times be kept in a clean, safe, and sanitary condition.

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* These standards apply to workers of all ages.

Drinking water

Pure wholesome drinking water must be provided a all times. The use of a common drinking cup is prohibited.

Wash and toilet rooms

Proper wash and toilet rooms separate for each sex must be provided and kept clean and sanitary.

Retiring room

A retiring room for the exclusive use of females must be provided in every industrial establishment employing five or more females. One or more couches must be provided.

8. Workmen's Compensation for Industrial Accidents

Minors come under the Workmen's Compensation Law in case of industrial accident, except where the employment is illegal. In the case of illegal employment the insurance carrier is not required to pay compensation nor is the child compelled to accept it. With the refusal of compensation the minor may bring civil suit for recovery of damages.

9. Penalty for Violation

Any person or firm violating any provisions of the Child Labor Law is subject to a fine of not less than $10 nor more than $200, imprisonment for 10 days, or both.

10. Miscellaneous

Vocational Training and Placement

Co-operation between local, vocational and placement bureaus and the State employment bureau is provided for.*

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* Act of June 14, 1915, P. L. 833, Sec. 19.

Employment Agencies

Employment agencies are prohibited from furnishing employment to children in violation of the law.*

I. State Supervision Over Children and Institutions

General charge over the field of welfare is given to the State Department of Public Welfare.[137] The different kinds of institutions are classified and defined,[138] and supervisory power over these institutions, and in particular over all children's institutions is given to the department.[139] The act of 1923 gives the Department of Welfare the power and duty to visit and inspect institutions,[140] appoint county visitation boards,[141] and recommend standards and methods.[142]

The department of Welfare shall have the power and its duty shall be:[143]

(a) To investigate the residence of a child placed in Pennsylvania from unlicensed sources in another State, to return such child to the State of its legal residence, and to enter into appropriate contracts with such State relative thereto;

(b) To exercise any other powers and perform any other duties with regard to the bringing into this Commonwealth dependent, delinquent or defective children, which may now or hereafter be authorized or imposed by law upon the department;

(c) To make and enforce such rules and regulations for the effective enforcement of this section as shall be deemed advisable and appropriate.

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* Act of April 25, 1907, P. L. 106, Sec. 9, and Act of June 7, 1915, P. L 888, No. 397, Sec. 17.

[137] Act of June 7, 1923, P. L. 498, Sec. 2001.

[138] *Ibid.*, Sec. 2002.

[139] *Ibid.*, section 2003; see also Act of May 25, 1921, P. L. 1144, Sec. 9.

[140] Act of June 7, 1923, P. L. 498, Sec. 2004; Act of April 24, 1869, P. L. 90, Sec. 5; Act of May 25, 1921, P. L. 1144, Sec. 12.

[141] Act of June 7, 1923, P. L. 498, Sec. 2005; also Act of March 5, 1903, P. L. 11.

[142] Act of June 7, 1923. P. L. 498, Sec. 207.

[143] *Ibid.*, Sec. 2010.

The Department of Welfare shall further have the power to request reports as o criminals and delinquents, and establish and maintain prison labor.[144]

J. Dependent, Neglected and Delinquent Children

1. Importation of Dependent, Neglected and Delinquent Children

The conditions of importation of children into Pennsylvania are the subject of law.[145] It is unlawful to bring or send or cause to be brought or sent into the State any dependent, delinquent or defective children for the purpose of placing such children in any home in Pennsylvania or procuring such placement by indenture, adoption or otherwise, or to abandon such children after being brought or sent into the State without first obtaining the written consent of the Board of Public Charities, now the Department of Welfare, and conforming to this act and the rules and regulations.

A bond is to be given conditioned upon not bringing incorrigible or unsound children into the State.[146]

Supervision of importation of children is given to the Department of Welfare,[147] and the penalty is a fine not exceeding one hundred dollars for violation of this law.[148]

This law does not apply to bringing a child into the State for the purpose of giving it a home in the family of a relative, nor to the placing of a child in any institution.[149]

The latest law on this subject gives the supervision of the importation of children into the State, to the Department of Welfare.[150]

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[144] *Ibid.*, Sec. 2012 as amended by Act of April 13, 1927, P. L. 207, Sec. 62.
[145] Act of July 11, 1917, P. L. 769
[146] *Ibid.*, Sec. 2, as amended by the Act of July 17, 1919, P. L. 1027, Sec. 1.
[147] Act of July 11, 1917, P. L. 769, Sec. 3.
[148] *Ibid.*, Sec. 4.
[149] *Ibid.*, Sec. 5.
[150] Act of June 7, 1923, P. L. 498, Sec. 2010.

2. Adult Responsibility for Delinquency

It is unlawful to contribute to the delinquency of any minor or to encourage the minor to violate his parole or any order of the court and is subject to a fine not in excess of five hundred dollars or imprisonment not exceeding one year or both.[151] In such cases there is a presumption that the delinquent is a minor.

3. Baby Farming

The law relating to boarding homes for infants is found in the act of 1925.[152] A boarding home for infants is defined as "any place, other than institutions duly incorporated for the purpose, maintained, operated, and conducted for hire, gain or reward, for the reception of more than one infant child under three years of age unaccompanied by parent or guardian, for the purpose of providing such children with care, food and lodging for a continuous period longer than twenty-four hours, unless such children are related to the person or persons maintaining and conducting such place by blood or marriage within the second degree; but the term shall not be construed to include such places as are commonly known as day nurseries, where children are not lodged overnight."

The law proceeds to provide for licensing of applicants to operate such boarding houses. The license is issued by the Department of Welfare upon proper application and with the approval of the local health authorities in cities of the first, second or third classes. The license is granted for a year and provides for the number of infants that may be kept. The department may with the approval of the State Welfare Commission make and adopt rules and regulations. The license may be revoked by the department. The department and the health authorities in cities of the first, second and third classes have the right at any time to enter, visit and inspect the premises. Records must be kept as required by the department. A penalty for violation of the act is a fine not exceeding one hundred dollars and imprisonment not exceeding one year or both.

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[151] Act of May 6, 1909, P. L. 434.

[152] Act of April 14, 1925, P. L. 234. Cf. 8 D and C 471 which held Act of 1925 unconstitutional.

4. State, County and Municipal Poor Relief

See discussion of Poor Law hereafter.

5. Mothers' Assistance Fund

For each county which accepts the provisions of the Mothers' Assistance Fund Act,[153] the Governor appoints seven women, residents of the county, to constitute the Board of Trustees of the Mothers' Assistance Fund. The Trustees serve, without compensation, for six-year overlapping terms.

The Governor appoints a State Supervisor, a woman "qualified by training and experience."[154] She has supervision over the boards of trustees, visits the boards, and formulates and issues rules of procedure "to the end that uniformity of interpretation and practice shall obtain throughout the Commonwealth."[155]

The administration of the act is in the hands of the boards of trustees.[156] They may appoint "competent investigators and clerical assistants." Administrative expenses may not exceed 10 per cent of the appropriation for the county, except for an outlay for equipment during the first year after a county accepts the act.

The mothers entitled to assistance in supporting their children in their own homes are poor and dependent mothers of proved character and ability, who have children under the age of sixteen years and whose husbands are dead or permanently confined in institutions for the insane.[157]

No family shall be benefited unless the mother has been a resident continuously of the State for two years and of the county in which she applies for assistance for a period of one year. No family loses its residence and right to benefit within a year after removal from the county.[158]

No payment shall be recommended until proper investigations

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[153] Act of July 10, 1919, P. L. 893, Sec. 1, as amended by Act of May 22, 1923, P. L. 307, Sec. 1.
[154] Act of May 17, 1921, P. L. 1175, Sec. 1.
[155] Act of May 22, 1923, P. L. 307, Sec. 2.
[156] Act of July 10, 1919, P. L. 893, Sec. 4.
[157] Act of July 10, 1919, P. L. 893, Sec. 6.
[158] *Ibid.*, Sec. 7.

are made,[159] and the maximum monthly payments in no case are to exceed twenty dollars per month for the first child, and ten dollars per month for each additional child. An unborn child entitles the mother to assistance as in the case of other children if she has one or more children living.[160] The duration of payments are at the will of the trustees but not beyond the time when any child under the provisions of the law may secure employment, excepting where the child is physically unable to earn wages or is at school with a satisfactory record of attendance and scholarship, in which case payment shall continue until such child has reached the age of sixteen years.[161]

The act further provides for the apportionment of the State appropriations. Each county must match with an equal amount the apportionment which it receives from the State.

K. Juvenile Courts

1. Establishment of Juvenile Courts, Jurisdiction and Powers

Juvenile Courts were established by the act of April 23, 1903,[162] as amended by the Act of June 28, 1923, as to jurisdiction.

The law provides that the courts of quarter sessions of the peace shall have full and exclusive jurisdiction in all proceedings affecting the treatment and control of dependent, neglected, incorrigible and delinquent children under the age of sixteen years. Dependent and neglected children shall mean any child or children who are destitute, homeless, abandoned or dependent upon the public for support or who have not parental care or guardianship. Incorrigible children shall mean any child or children who are charged by their parent or guardian with being unmanageable. Delinquent children shall mean any child or children including incorrigible children, who may be charged with the violation of any law of the State or ordinance of any city, borough or township.

The judges of the court of quarter sessions may hold a special

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[159] *Ibid.*, Sec. 8.
[160] *Ibid.*, Sec. 9.
[161] *Ibid.*, Sec. 11.
[162] Act of April 23, 1903, P. L. 274.

session to be known as Juvenile Court, and such session shall be separate and apart from the general criminal or other business.

The court* may exercise its powers[163]:

1. Upon the petition of any citizen, resident of the county, setting forth that a child is neglected, dependent, or delinquent, and is in need of the care and protection of the court.

2. Whenever any magistrate or justice of the peace shall commit a child arrested for any indictable offense other than murder, or for the violation of any other laws of this Commonwealth or the ordinance of any city, borough or township.

The court shall make all necessary orders for the production and control and disposition of the child.

School directors may proceed against incorrigible children.[164]

2. Probation and Other Officers and Employees of Juvenile Courts

The appointment and continuance of probation and other officers is provided for.[165] They must be discreet persons of good character and serve during the pleasure of the court.

3. Considerations in Committing Children

The Court in making all orders for the commitment of children, shall place them as far as possible, in the care and custody of persons having the same religious belief as the parents of the child, or with some association which is controlled by persons of

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* Note: In the County of Philadelphia this jurisdiction is exercised by the Municipal Court see Act July 12, 1913, P. L. 711, Sec. 8, as amended by Act July 17, 1917, P. L. 1015. In the County of Allegheny by the County Court of Allegheny County (Act of March 19, 1915, P. L. 5, Sec. 1).

As to the jurisdiction of the Municipal Court in Philadelphia County see the Act of 1915, Supra, also Sec. 8 of the Act of July 12, 1913, P. L. 711, and Secs. 9 and 13 of the same Act. As to the jurisdiction in Allegheny County see Act of May 23, 1923, P. L. 324; and Act of March 19, 1915, P.L. 5.

(a) For the appointment and salaries of probation officers in Philadelphia and Allegheny Counties, see Sec. 3, Act of June 27, 1923, P. L. 850; Act Apr. 7, 1925, P. L. 160. As to compensation of probation officers in the smaller counties. See Act of July 10, 1919, P. L. 885.

[163] Act of June 28, 1923, P. L. 898, Sec. 1

[164] Act of May 18, 1911, P. L. 309, Sec. 1438.

[165] Act of April 23, 1903, P. L. 274, Sec. 3, as amended by Sec. 1 of the Act of April 1, 1909, P. L. 89.

such religious belief; and shall as far as possible, provide, in making orders of commitment, that the care, custody and discipline of the child shall be as nearly as possible that which should be given by its parent. In all cases where it can properly be done, the child shall be placed in an approved family home and become a member of the family by legal adoption or otherwise.[166]

Children shall not be confined with adults.[167]

The appointment of a police matron is provided for in first and second-class cities,[168] and jurisdiction is established over houses of detention in third-class cities.[169]

There must be separate rooms or buildings for the confinement of children under sixteen years of age.[170]

4. Proceedings, Hearings, Commitment, Appeals and Costs

Magistrates and justices of the peace shall not commit children under sixteen years of age to any institution. All applications shall be made to the court of Quarter Sessions, except in Alleshall be made to the court of quarter sessions, except in Allegheny County to the County Court and in Philadelphia to the Municipal Court.[171]

Provision is made for the commitment of children after the hearing,[172] but the court should have in mind certain definite considerations in making commitments.[173]

It is unlawful to commit the custody of any delinquent child under twelve to an institution until efforts have been made to care for the child under the probation system; and neglected or dependent children shall not be sent to institutions* for delinquent children, nor vice-versa[174].

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*Note: (b) Section 1, Act of July 2, 1901, P. L. 601, provides for houses of detention for juvenile offenders in cities of the first and second class.

[166] Act of April 3, 1903, P. L. 274, Sec. 9.

[167] *Ibid.*, Sec. 7.

[168] Act of May 13, 1899, P. L. 192, Sec. 2.

[169] Act of May 17, 1921, P. L. 840.

[170] Act of July 21, 1913, P. L. 870, No. 420, Sec. 1.

[171] Act of March 26, 1903, P. L. 66, Sec. 1.

[172] Act of June 15, 1911, P. L. 959, Sec. 1. See also Act of June 12, 1919, P. L. 445.

[173] Act of April 23, 1903, P. L. 274, Sec. 9.

[174] *Ibid.*, Sec. 10.

Orders of commitment* are subject to amendment,[175] and there may be a review of juvenile cases or appeals by the superior court and the revocation or termination of orders.[176]

In cases of certain felonies trial† of juveniles over fourteen years of age on indictment upon certification by the court to the District Attorney, is covered[177].

5. Liability for Cost of Commitment, Maintenance and Instruction of Juvenile Offenders and Indigent, Neglected and Dependent Children

The cost of commitment and maintenance of a child committed to an association or person[178] may be recovered from the county and the county shall have recourse against the person or poor district properly charged with the support of the child.

The liability of counties for the cost of commitment and maintenance of indigent and dependent children with recourse against the relatives, is specified.[179]

The payment of costs of maintenance in industrial schools is covered,[180] as is also the payment of costs of maintenance in institutions not exclusively under state control,[181] and the payment of costs of maintenance of children in institutions outside the State.[182]

The cost of support and maintenance of delinquents committed by United States Courts, are to be paid for by the United States.[183]

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*Note: Section 1, Act of March 22, 1899, P. L. 15, No. 12, provides for the commitment of juveniles convicted in the district and circuit court of the United States.

†Note: Sec. 1, Act of June 9, 1911, P. L. 836, covers costs in juvenile cases; the Act of June 7, 1907, P. L. 438, relates to additional fees and costs; see also the Act of May 11, 1911, P. L. 270.

[175] Act of April 22, 1909, P. L. 119.
[176] Act of June 1, 1915, P. L. 652.
[177] Act of June 28, 1923, P. L. 898. Sec. 3.
[178] Act of May 8, 1913, P. L. 177.
[179] Act of May 31, 1907, P. L. 331, Sec. 1.
[180] Act of April 15, 1903, P. L. 208.
[181] Act of March 27, 1903, P. L. 83.
[182] Act of June 7, 1911, P. L. 676.
[183] Act of March 22, 1899, P. L. 15, Sec. 2.

L. Institutional Care

1. Provisions Relating to Institutions in General

A Board of Property is provided for,[184] and a Board of Trustees of each State institution.[185]

The Department of Public Welfare is given state jurisdiction over free service to indigent persons,[186] and its power and duties of visitation and inspections are outlined.[187] State supervision and visitation of institutions by state agents are also provided for.[188]

2. Correctional Institutions

The general law on this subject is the Act of June 7, 1923, P. L. 498, Section 2019.

M. Defective Children

1. Education of Blind Children

The education of certain blind children under eight years of age and the procedure whereby blind students may attend higher institutions of learning is covered.[189]

2. Deaf Children

There are provided institutions and boards of trustees of said institutions, for the deaf.[190]

3. Deficient Children

Separate classes or schools for children between the ages of eight and sixteen years, who are gravely retarded in school work, or who, because of apparent exceptional physical or mental conditions are not being properly treated, are provided.[191]

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[184] Act of June 7, 1923, P. L. 498, Sec. 403.
[185] *Ibid.*, Sec. 435 as amended by Act April 13, 1927, P. L. 207, Sec. 27.
[186] *Ibid.*, Sec. 2017.
[187] *Ibid.*, Secs. 2004 and 2005.
[188] Act of May 1, 1913, P. L. 149; Act of April 24, 1869, P. L. 90, Sec. 6; Act of March 5, 1903, P. L. 11; Act of June 6, 1913, P. L. 452; Act of May 14, 1909, P. L. 838; and Act of April 26, 1917, P. L. 108.
[189] Act of May 18, 1911, P. L. 309, Sec. 1439 and 1440.
[190] Act of June 7, 1923, P. L. 498, Sec. 1311.
[191] Act of May 18, 1911, P. L. 309 as amended by the Act of July 22, 1919, P. L. 1090.

4. Care of Dependent Crippled Children

Indigent, neglected crippled children are to be committed to institutions for treatment[192] and a State hospital for the care and treatment of crippled children is authorized.[193]

5. Feeble-Minded Children

a. General Provisions

Mental defectives under twenty years of age, may be admitted to schools for mental defectives.[194] Application for admission shall be made by the parent, guardian, relative or other responsible person having custody of such mentally defective person or being liable for his support.

Epileptics under twenty-one years of age are admitted and detained in institutions, either upon a written application by the parent, guardian or other person liable for his support, or upon his own written application, signed in the presence of at least one witness.[195]

The payment of costs of maintenance of feeble-minded children shall be out of public funds.[196]

The estates of inmates of charitable institutions shall be liable for such inmates' maintenance.[197]

Reports shall be made to the Attorney General, by trustees, committees, guardians or other persons appointed by the court to have charge of the estates of lunatic or feeble-minded persons. Liabilities are imposed for the maintenance of such persons by relatives and upon estates held by entireties, and the court is authorized to make orders for maintenance of such persons.[198]

The court shall order the estate of the minor in a mental hospital, to contribute to his maintenance.[199]

The method of proof of expenditures for maintenance, claims for maintenance and precedence of claims is specified.[200]

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[192] Act of June 7, 1923, P. L. 677.
[193] Act of May 14, 1925, P. L. 749.
[194] Act of July 11, 1923, P. L. 998, Secs. 309, 310, 311, and 312.
[195] *Ibid.*, Sec. 312.
[196] Act of July 10, 1923, P. L. 498, Sec. 2016.
[197] Act of June 1, 1915, P. L. 661.
[198] Act of May 10, 1921, P. L. 438.
[199] Act of July 11, 1923, P. L. 998, Sec. 505.
[200] Act of June 1, 1915, P. L. 661, Secs. 5 and 6.

N. Crimes and Offenses Against Children

1. Specific Offenses

a. Abduction, Kidnapping, Harboring Kidnapped Child

It is a felony to take or assist in taking, carrying away, decoying or enticing away or secreting any child or person with intent to extort money or any other valuable thing for the restoration or return of such person.[201]

Kidnapping is punishable by imprisonment, by separate and solitary confinement at labor for the term of his or her entire life, or for any term of years, at the discretion of the court.

The person who assists is guilty of a felony and may be sentenced to a fine of five thousand dollars and imprisonment by separate and solitary confinement at labor, not exceeding twenty-five years, at the discretion of the court.

If any person shall maliciously, either by force or fraud, lead, take or carry away, or decoy or entice away any child under the age of ten years, from its parent or guardian or any other person having the lawful charge or care or possession of such child, with the intent to extort money or any valuable thing for the restoration of such child, it is a felony punishable by a fine not exceeding ten thousand dollars and imprisonment by separate and solitary confinement at labor not exceeding twenty-five years. Concealing, harboring or detaining, or assisting to do so in connection with any kidnapped child, is a felony punishable by a fine not exceeding five thousand dollars, and imprisonment by separate or solitary confinement at labor not exceeding fifteen years.[202]

b. Abandonment and Neglect

Abandonment of infants under seven years of age, by parents or other persons in control, is a misdemeanor, punishable by imprisonment not exceeding twelve months and a fine not exceeding one hundred dollars.[203]

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[201] Act of April 4, 1901, P. L. 65.

[202] Act of February 25, 1875, P. L. 4, Sec. 1, also Sec. 94, of the Act of March 31, 1860, P. L. 382, is still in force on this subject.

[203] Act of March 31, 1860, P. L. 395, Sec. 45.

Abandonment of any child under sixteen years of age, by parents, guardian or person charged with his custody, is a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or both.[204]

Cruelty to an abandoned or neglected child who is a minor, shall be punishable by a fine of not less than ten or not more than fifty dollars for each offense.[205] Commitment for failure to pay this fine shall be for a period of not less than twenty nor more than ninety days.[206]

*c. Abuse and Cruelty**

Cruelty to children by persons having legal control, shall be a misdemeanor, punishable by a fine not exceeding five hundred dollars, or imprisonment not exceeding two years or either or both.[207]

d. Employment, Use and Disposition of Children for Unlawful Purposes

The taking or sending minors to immoral resorts, shall be a misdemeanor, punishable by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or both.[208]

Permitting a child under sixteen years of age to become a denizen of a house of ill-repute or place where opium or any preparation thereof is smoked, is a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or either or both.[209]

The using or permitting to use children as mendicants, is a misdemeanor, punishable by a fine of not less than fifty dollars, nor more than two hundred and fifty dollars for each offense, or imprisonment in the county jail for not less than sixty days nor more than a year, at the discretion of the court.[210]

The using or hiring of children as mendicants, is a misdemeanor

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[204] Act of May 29, 1907, P. L. 318, Sec. 1; also Act of July 12, 1919, P. L. 939.
[205] Act of June 11, 1879, P. L. 142, Sec. 1.
[206] *Ibid.*, Sec. 11.
*Note: See the two previous sections.
[207] Act of March 31, 1860, P. L. 382, Sec. 90.
[208] Act of March 24, 1909, P. L. 59, No. 34.
[209] Act of May 29, 1907, P. L. 318, Sec. 2.
[210] Act of May 15, 1874, P. L. 179, Sec. 1.

subject to a fine of not less than fifty dollars, nor more than one hundred dollars.[211]

Permitting children under fifteen years of age to sing, dance or act in dance halls, concert-saloons, etc., is a misdemeanor subject to a fine of not less than fifty dollars, or more than one hundred dollars for each offense.[212]

The employment of children under fifteen years of age as acrobats, etc., or retaining them in immoral resorts is a misdemeanor, subject to a fine of not less than fifty dollars or more than one hundred dollars, for each offense.[213]

The employment of children under twelve years of age, in any underground work is a misdemeanor, subject to a fine of not less than ten dollars or more than fifty dollars.[214]

Employing children under eighteen years of age in theatrical performances without the consent of the parents, is unlawful and subject to a fine of not less than fifty dollars and not more than one hundred dollars for the first offense, and upon the second offense imprisonment for not less than a year nor more than three years.[215]

The buying and selling of infant children is a misdemeanor; the penalty is a fine not exceeding one thousand dollars and imprisonment not exceeding five years, or both, at the discretion of the court.[216]

e. Sexual Crimes

Prostituting or enticing into houses of ill-fame, female children, under sixteen years of age, is a misdemeanor subject to imprisonment at separate or solitary confinement at labor, not over five years, or a fine not exceeding one thousand dollars, or both.[217]

The seduction of any female under twenty-one years of age, under promise of marriage, is a misdemeanor, punishable by a fine not exceeding five thousand dollars and imprisonment,

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[211] Act of June 11, 1879, P. L. 142, Sec. 3.
[212] *Ibid.*, Sec. 4.
[213] *Ibid.*, Sec. 2.
[214] *Ibid.*, Sec. 5.
[215] Act of May 16, 1901, P. L. 220, Sec. 1.
[216] Act of April 18, 1905, P. L. 213, Sec. 1.
[217] Act of May 28, 1885, P. L. 27, Sec. 1.

or imprisonment without labor, not exceeding three years, or either or both.[218]

If any person shall have carnal knowledge of any woman child under sixteen years of age, it is a misdemeanor subject to a fine not exceeding one thousand dollars, and imprisonment by separate or solitary confinement or at labor, or by simple imprisonment not exceeding fifteen years.[219]

f. Admittance to Dance Halls, Saloons, etc.

The admitting of minors under eighteen years of age to certain places of amusement is a misdemeanor, subject to a fine not exceeding two hundred dollars.[220]

A recent law provides for the licensing of public dance halls and ballrooms and for the regulation of dances in townships.[221]

In cities of the first class, minors under eighteen years of age may not be permitted in any licensed poolroom, nor may they play billiards, pool, or bagatelle. A violation of this rule will mean a revocation of the license.[222]

Minors in Chester and Delaware Counties shall not be admitted to billiard rooms, or bowling saloons, or ten-pin alleys, under penalty of a fine not less than the amount of the license nor more than five hundred dollars, and forfeiture of the license.[223]

Inn-keepers shall not receive, harbor, or trust any person under twenty-one years of age, knowing him to be such, under penalty, for the first or second offense, of three dollars over and above the forfeiture of any debt contracted by any such minor, and for the third offense, under penalty of fifteen dollars and the forfeiture of his license, and of being forever incapable of receiving a license to keep a public inn within this Commonwealth.[224]

g. Obscene Literature

Selling, lending, giving or showing indecent books, pictures, etc., to minors, is a misdemeanor subject to a fine not exceeding

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[218] Act of March 31, 1860, P. L. 382, Sec. 41.
[219] Act of May 18, 1887, P. L. 128, Sec. 1.
[220] Act of May 28, 1885, P. L. 27, Sec. 4.
[221] Act of May 11, 1927, P. L. 968.
[222] Act of June 7, 1911, P. L. 668, Sec. 9.
[223] Act of April 13, 1859, P. L. 614, Sec. 1.
[224] Act of March 11, 1834, P. L. 117, Sec. 21.

five hundred dollars and imprisonment not exceeding two years.[225]

Minors shall not be permitted to assist in the sale, gift, or advertisement of obscene books or articles, under penalty, subject to a fine of not over one thousand dollars and imprisonment not over one year, or both, for each offense.[226]

h. Contributing to Delinquency

Contributing to the delinquency of minors shall be a misdemeanor, subject to a fine of not more than five hundred dollars, or imprisonment not exceeding one year, or both. Delinquents' minority is to be presumed in the absence of proof to the contrary.[227]

i. Unlawful Sales, Gifts, etc.

The selling and furnishing of tobacco in any form, to persons under sixteen years, is prohibited, under penalty of a fine not exceeding one hundred dollars, or confinement in the county jail not exceeding thirty days.[228]

Furnishing cigarettes and cigarette paper to minors is prohibited under penalty of a fine of not less than one hundred dollars, or more than three hundred dollars, and any minor who refuses to furnish information as to where and from whom the cigarettes or cigarette paper was obtained, and is sixteen years of age and upward, shall be sentenced to a fine not exceeding five dollars, or imprisonment in the county jail not exceeding five days. If the minor is under sixteen years the matter goes to the Juvenile Court.[229]

The furnishing of opium, compound opium, etc., to minors under twelve years, excepting under prescription, is a misdemeanor, punishable by a fine not exceeding two thousand dollars, or imprisonment not exceeding five years, or both.[230]

Deadly weapons or dangerous explosives shall not be sold to

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[225] Act of May 6, 1887, P. L. 84, Sec. 2.
[226] Act of May 12, 1897, P. L. 63, Sec. 1.
[227] Act of May 6, 1909, P. L. 434.
[228] Act of July 10, 1901, P. L. 638.
[229] Act of May 9, 1913, P. L. 198.
[230] Act of April 20, 1921, P. L. 152, Sec. 1, amending Sec. 2 of the Act of July 11, 1917, P. L. 758; See also Sec. 12 of the Act of 1917, P. L. 758.

minors under sixteen years of age, under penalty of a fine not exceeding three hundred dollars.[231]

j. Medicines and Poisons

The distribution of samples of medicines, dyeing, ink, coloring or polishing compounds in any place accessible to children, is a misdemeanor, subject to a fine of not more than twenty dollars or imprisonment in the county jail, not more than twenty days.[232]

k. Receiving Goods from Minors

Junk shall not be bought or received from minors, under penalty of fine not exceeding five hundred dollars, or imprisonment not more than one year or both.[233]

Loans to minors under sixteen years, either directly or through an intermediary, shall be subject to a fine of not less than five dollars nor more than twenty-five dollars, for each offense; or in case of non-payment of the fine within forty-eight hours, then imprisonment in the county jail not exceeding five days.[234]

O. Enforcement and Enforcement Agents

Agents of humane societies may be commissioned as constables, to make arrests for violation of the act.[235]

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[231] Act of June 10, 1881, P. L. 111, Sec. 1.
[232] Act of May 2, 1901, P. L. 111.
[233] Act of May 5, 1899, P. L. 247, Sec. 1.
[234] Act of June 7, 1911, P. L. 671.
[235] Act of June 11, 1879, P. L. 142, Sec. 8.

CHAPTER II

THE DEPARTMENT OF WELFARE AND THE POOR LAW

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I. THE DEPARTMENT OF WELFARE AND ITS FUNCTIONS WITH REFERENCE TO CHARITABLE WORK*

A. Statutory Provisions

The Department of Public Welfare of the Commonwealth of Pennsylvania in addition to its responsibilities in the field of children, public health in correctional institutions and in other directions, has specific supervisory powers over all state and semi-state institutions and all supervised institutions, which means any charitable institution within the Commonwealth which receives financial assistance from the Commonwealth either directly or indirectly.[1] It is the duty of the Department to make and enforce rules and regulations for the visitation, examination and inspection of all supervised institutions and to inspect them at least once a year and to direct the correction of any objectionable condition.[2] The Department has the power to appoint visitorial bodies.[3]

The specific responsibility of the Department with reference to the indigent is as follows:

(a) To issue requisitions upon the Auditor General in favor of such hospitals, homes and institutions as shall conform to at least the minimum standards in amounts established by law for free service to indigent persons for
   (1) The care and treatment of injured or sick persons in hospitals;
   (2) The care of dependent, delinquent and defective children in homes or institutions;
   (3) The care of dependent adults in homes or in institutions;
   (4) The care and treatment of crippled children in homes or hospitals.

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* (The material for this discussion is derived largely from a pamphlet issued by the Public Charities Association of Pennsylvania entitled "Our State Welfare Department," and from an article by Mrs. E. S. H. McCauley, Secretary of Welfare, "Policies of the Department of Welfare for the Care of Pennsylvania's Dependents".)

[1] Act of June 7, 1923, P. L. 498, Art. XX, Secs. 2002 and 2003.

[2] *Ibid.*, Sec. 2004.

[3] *Ibid.*, Sec. 2005.

(5) The care, treatment and removal of insane persons to county hospitals for the insane, or private institutions licensed by the Department;

(6) The removal of non-resident, dependent children;

(7) The placement of dependent children through child-caring agencies.

(b) The Department further has the duty to establish rules and regulations for determining the number of free days of care and treatment rendered to indigent persons by hospitals, homes or institutions.[4]

The Pennsylvania State Department of Welfare, authorized by an Act of Assembly, approved and signed by Governor Sproul, came into existence on May 25, 1921.

Under the terms of the Act, there were united and co-ordinated, a number of different bureaus and their duties; the old Board of Public Charities, established in 1869; the Committee on Lunacy, established in 1883; the Mothers' Assistance Fund, established in 1913; and the Prison Labor Commission, established in 1915. To the duties and responsibilities of these various bureaus was added that of inspecting and supervising all institutions and agencies for the care of children.

In accordance with the Act, the State Department of Welfare was divided into four Bureaus, each with a separate head, and designated as follows:

Bureau of Children
(Including Mothers' Assistance Fund)
Bureau of Assistance
Bureau of Mental Health
Bureau of Restoration

B. The Work Done

1. Welfare Commission

The Act creating the Welfare Commission says in part:

"The Commission of Public Welfare shall consist of nine members, three of whom, as ex-officio members, shall be the Commissioner of Public Welfare,

[4] Act of June 7, 1923, P. L. 498, Sec. 2017.

the Commissioner of Labor and Industry, and the Commissioner of Health, and six of whom shall be appointed by the Governor, by and with the advice and consent of the Senate."

"It shall be the duty of the commission to advise the commissioner on such matters as he may bring before it or as it may require him to bring before it, and it shall have general supervision over the policies of the department."

2. The Bureau of Children

The Bureau began, first of all, to gather information concerning the most important phases of work for children throughout the State. Every one of its agencies and courts has been visited and studied, and the resultant information and data have been carefully recorded and indexed.

Every county has been studied from the standpoint of its juvenile court procedure and its detention facilities for children. Accurate classifications and subdivisions of the whole field of child welfare have been made, and standards have been developed as rapidly as was possible under existing conditions. The Bureau has developed inspection study schedules, and a system of official letters of recommendation to societies and institutions.

The health needs of children, in the groups covered by the Bureau, have been carefully considered and have resulted in marked improvements in dietary and other health conditions. Free record forms, for social and physical histories of the children and their families, have been widely distributed.

A monthly bulletin is issued which presents information of interest and importance to the child welfare organizations throughout the State.

The Bureau has sponsored or directed a number of important studies, such as "Day Nurseries in Pennsylvania," by Mrs. Helen Glenn Tyson; "Adoption Practice in Allegheny and Twelve Other Counties" by Miss Clara J. McDonnell; and "Parole at Sleighton Farm" by Miss Florence Fitzherbert. Additional special studies and surveys have been made at the request of agencies and counties. The needs of the deaf, blind and crippled children have been studied, and the Bureau has been a factor in the development of plans for their care.

An important move is the development of a uniform system of accounting. Its adoption has been made mandatory upon all State-aided charities.

The Bureau issues a directory of children's institutions and child-caring societies in the State. It also publishes material on standards of child welfare work in its many details.

3. Mothers' Assistance Fund

See Chapter I.

4. The Bureau of Assistance

a. Its Duties and Personnel

To the Bureau of Assistance are assigned all activities and problems relating to the distribution of the State's charity funds to hospitals, homes and agencies, together with the supervision of almshouses and public outdoor relief. In case of floods, fires or other disasters, this Bureau would have charge of the distribution of any funds appropriated for relief.

Under its supervision there are 167 State-aided hospitals, 19 State-aided and 105 non-State-aided homes for adults, and 86 city, county, district, township and borough almshouses,—a total of 377 institutions.

b. Equitable Distribution of Funds

When the Department of Welfare was organized, the problem of State-aid to medical and surgical hospitals had become a serious and perplexing question. To bring to an end the ever-increasing burden imposed on the State because more and more institutions were finding a place on the list of State-aided hospitals, and to initiate a more equitable distribution of State charity funds, were real problems to be solved.

A careful study of the question convinced the Secretary of Welfare that the way to establish the distribution of State-aid on a business basis, fair to the institutions as well as fair to the taxpayers of the State, was by means of a uniform budget and accounting practice in the subsidized institutions. The first move by the Bureau, therefore, was the establishment of an accurate system of bookkeeping. This was done after careful consultation with hospital and public accountants, and with the American Hospital Association.

c. Abuse of Charity Remedied

Another question that needed attention was the fact that many persons who were able to pay hospital fees were being admitted to the wards as charity patients. This had led to a widespread abuse of the charitable funds of the State. As a remedy the Bureau required that each State-aided hospital establish a business-like credit department.

The Bureau has been active in hospital social service. Four of its field representatives are experienced hospital social workers and they are bringing the hospitals in touch with the social resources of their communities and of the State.

d. State-Owned Hospitals

The purpose behind the legislation which originally established ten State-owned hospitals was to take care of the injured in cetain industries so far removed from populated centers as to be beyond the possibility of quick aid in case of accidents.

State-owned hospitals do not now properly belong under the Bureau of Assistance, but are administered by the General Staff of the Department of Welfare.

e. The Almshouses

Strictly speaking, almshouses are institutions supported by local communities to serve as homes for the aged poor, and for temporary care of other indigent adults. As a matter of fact, under pressure of growing needs, almshouses have become more and more, homes where epileptics, mental defectives, insane persons, and inebriates are placed along with normal inmates, and sometimes even with children.

As a result of this overcrowding many almshouses have become expensive to operate, and through lack of funds they have frequently degenerated into a disgraceful condition. Such conditions are true especially in many instances where almshouses are conducted by townships and boroughs rather than by counties.

Until the State develops its institutions to the point where it may assume its proper functions in caring for the epileptic, the insane, mental defectives and inebriates, many of these groups must continue to be lodged in almshouses.

f. Building Program Needed

The Department of Welfare is urging a building program that will take care of the present deplorable situation in a satisfactory manner. The Department has adopted these policies:

1. The organization of the almshouse on a county basis, or in districts composed of two or more counties, throughout the State.

2. The development through the other Bureaus of the Department, of State facilities for the care of the groups mentioned above, leaving for the almshouse only the aged, the indigent, and the chronically ill. The Bureau has found that less than ten per cent of these persons are able-bodied and the crying need for the other ninety percent is proper hospitalization.

g. Family Welfare Neglected

The most conspicuous lack in connection with our poor law administration is the crying need for constructive social case work with families and individuals—a service inspired by sympathy, based upon the study of the facts in each particular case, and utilizing to the fullest extent all personal and community resources to help the individual regain independence and normal life. Such a service implies the employment of trained social workers by the Directors of the Poor.

Realizing that practical demonstrations of social case work methods would bring results most speedily, the social service consultant of the Bureau has, wherever possible, assisted in working out to a successful conclusion typical problem cases which have been brought to her attention by various Directors of the Poor. This has resulted, in several instances, in the employment of qualified workers.

h. Homes for Aged Helped

Under the supervision of the Bureau of Assistance, 19 State-aided and 105 non-State-aided homes for the aged have been carefully inspected, as well as all private institutions for the poor. Constructive criticisms have been appreciated by the officers in charge of these private homes, and improvements have been made.

5. Bureau of Mental Health

To a considerable extent this Bureau may be designated as the successor of the Committee on Lunacy, Board of Public Charities. The scope of the Bureau, however, is much broader than that of the old Committee because it has under its supervision everything pertaining to mental patients of all kinds throughout the State, in accordance with the Administrative Code and Mental Health Act of 1923.

a. Its Personnel and Duties

The staff of the Bureau consists of a Director, a secretary, a field psychiatrist, three psychologists as field representatives, an occupational therapist, a field representative who teaches the use of music in mental hygiene treatment, a stenographer-secretary, and a filing clerk.

Included in the duties of the Bureau are:

1. The establishment and stimulation of measures and activities for the prevention and treatment of mental disease and defect, such as clinics, etc.
2. Periodic visitation and constant supervision of all institutions, hospitals and other places where mental patients may be detained or treated.
3. Prescribing standards of care and treatment for mental patients in various institutions.
4. The transfer of patients from one institution to another, and the deportation to other states and countries of patients not having legal residence in Pennsylvania.
5. Consultation, both personal and by correspondence, in reference to questions of mental health, preparation of plans and policies regarding mental health; and the shaping of mental health legislation.

b. What It Has Accomplished

A survey of all institutions receiving and treating mental patients was finished in 1922.

Follow-up visitation is made at least annually to all institutions receiving mental patients. Frequent conferences are held with superintendents as to plans and policies.

c. Uniform Statistical Records

The Bureau has promulgated uniform statistics for all State and licensed county institutions, and has distributed new forms for commitment, transfer and report of admission and discharge of mental patients. Annual statistical reports from the various institutions are prepared on standardized forms furnished by the National Committee for Mental Hygiene.

d. Legislative Activities

The Bureau prepared the Mental Health Act of 1923 which codifies, correlates, and modernizes laws and procedure with reference to all kinds of mental patients. It prepared an amendment for the Maintenance Act so as to permit the continuance of $3 per week from the State per capita, instead of the basic $2.50 per week, which has been found insufficient to meet the increased cost of maintaining the patients in the hospitals.

The Bureau modernized the work and names of hospitals and institutions for mental defectives and mentally ill; it assisted in seurcing needed expansion for Laurelton State Village and Torrance State Hospital, and it prepared a State-wide mental health program which includes institutional expansion needed for the next ten years.

e. Educational Activities

Included under this heading are the publication and distribution of literature and letters; talks by staff members before various groups and societies; co-operation with the Public Charities Association in stimulating participation by institutional psychiatrists in the matter of giving courses in the State Normal Schools; and stimulating the assignment of assistant medical officers to neuro-psychiatric courses given by the Post-Graduate Department of the University of Pennsylvania.

f. Establishment of Clinics

In the establishment of mental health clinics the Bureau has co-operated with the Bureau of Special Education, Department of Public Instruction, and with local officials. The Bureau's field representatives make pre-clinic investigations and

psychometric examinations. They also investigate waiting lists for institutions for mental defectives, and expedite the admission of urgent cases.

g. New and Special Services

A field psychiatrist has been appointed, who acts as consultant at some of the mental clinics, and helps to stimulate interest in, and to establish, such activities in new localities. The field psychiatrist also examines all new admissions at the Huntingdon Reformatory and serves as consultant at other correctional and penal institutions. The Director of the Bureau examines prisoners for the Pardon Board.

An occupational therapist has stimulated the establishment of active occupational therapy departments in most of the State hospitals and in several of the county institutions.

h. Other Activities

A musician has been added to the staff of the Bureau with headquarters at Allentown. He organizes group music and dramatic and social activities in institutions for mental patients and correctional schools and penitentiaries.

Social service departments have been organized in certain mental institutions as a direct result of the modernized Mental Health Bureau of the Welfare Department. Training classes for nurses have been improved; training schools for attendants have been established; dietetic conditions have been bettered. The number of patients on parole has been increased; restraint and seclusion have been lessened. Pennhurst has been established under a single medical head. The same is true of Norristown.

6. Bureau of Restoration

The Bureau of Restoration has charge of all activities and problems relating to the penal institutions of the State.

Prior to 1921 the inspection of the prisons of the State had been assigned to the Board of Public Charities but the facilities for inspection were so inadequate that the Board had to depend largely upon correspondence for facts with regard to county prisons. Hence their reports were often deficient, since many of the prison officials did not comprehend what was required of them.

a. Bad Conditions Existent

The new Department of Welfare instituted a system of inspections of the prisons throughout the State which resulted in the collection of a large amount of accurate data.

b. Conditions Improving

Statistics more recently published by the Department of State and Finance show that a considerable sum has been expended during the past two years in renovating and improving county prisons. In this second biennial report the Department recommended the abolition of the fee system for furnishing food to prisoners, a practice which still prevails in counties of the seventh class but is forbidden in all of the other classes.

c. Regional Farms Urged

The Department also urged that the State be divided into nine or ten regions with an industrial farm for each region, and that the various counties send their convicted prisoners to these prison farms. Under such a plan the present county jails would be retained only as places for the detention of untried prisoners.

d. Want Penitentiary Moved

By recommendation of the Department the Eastern Penitentiary is being removed to a farm forty or fifty miles from Philadelphia in order that the congestion due to present cramped quarters may be relieved, and greater opportunity afforded for prison industries.

The Legislature also enacted a law which will help to correct, at least in part, the evil of confining women in the county jails. The law provides that the Industrial Home at Muncy, first established as a reformatory for women between 16 and 31, shall be enlarged so that all women prisoners in the State may be sent to that institution. At the present time Pennsylvania has no established penitentiary for women.

e. Urge Central Parole Board

The Department has recommended the creation of a Central

Parole Board, at least one member of which shall be a psychiatrist. The present arrangements for parole are defective because the responsibility is often placed upon Judges and Boards of Trustees, who, although willing to serve to the best of their ability, are crowded with other duties.

f. Training Men in Trades

Formerly there was a Prison Labor Commission which had made some effort to establish industries in the various prisons but in 1921 its functions were transferred to the Department of Welfare. A superintendent for this particular department was not secured until July, 1923, and a careful selection was made with a view of emphasizing training in trades as one of the first things to be considered in order to develop men skilled in various industries.

Efforts have also been made to increase the sales of prisoners' work, and all of the prison industries have been greatly developed. The number of prisoners employed has increased 100 per cent and the value of commodities sold has increased over 80 per cent.

g. Experienced Leadership

Extended improvements have been made during the past two years in the existing prison industries which include shoe making, weaving, knitting, garment making, tailoring, printing, and license-tag making. The equipment of these plants is excellent, and experienced superintendents have been employed in order to render the work efficient and to strengthen the trade-training value of the work.

Other developments have been the establishment of a forest tree nursery, a concrete block plant, a canning factory, and a garden at Rockview; increased equipment in the printing department at the Eastern Penitentiary; and the development of a tailoring shop as a separate industry at the Western Penitentiary.

h. Make Millions of Auto Tags

For a number of years the manufacture of automobile license tags has furnished work for some of the inmates at the Pennsylvania Industrial Reformatory, involving the making of some two million tags annually.

More recently the manufacture of these tags has been transferred to the Western Penitentiary, and the Huntingdon Reformatory has been equipped with shops having greater trade-training value.

II. SOLICITATION OF FUNDS FOR CHARITABLE WORK

Where a charitable, religious, benevolent, humane, or patriotic organization desires to raise funds from the public or to sell or offer for sale anything to raise money or to attempt to secure money by any public bazaar, sale, entertainment or exhibition, it must secure a valid certificate of registration from the Department of Public Welfare. To secure this certificate a written application is made to the Department which then determines whether the organization is a proper one and not inimical to the public welfare or safety and that its appeal is for truly charitable purposes and issues the certificate. Where the certificate is given it is of value for only one year. One of the conditions of the issuance is that the commission for collecting the money shall not be in excess of 15 per cent of the amount collected.

A fee of two dollars is required at the time of filing the original statement.

The penalty for violation of the law is a fine of not less than one hundred, or more than one thousand dollars, and in case of an individual, fine or imprisonment for not more than one year. Certain organizations are exempt from this act such as fraternal organizations of Pennsylvania, religious organizations, colleges, schools, universities, labor unions, community organizations and charitable institutions required by the law to file reports with the Department of Welfare or with any other department of the Commonwealth.[5]

III. THE POOR LAW COMMISSION

In 1921 the Legislature appointed a Poor Law Commission which codified the law relating to indigent persons and this law

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[5] Act of May 13, 1925, P. L. 644, as amended by the Act of April 18, 1927, P. L. 300.

was finally adopted in 1925,[6] after various revisions and amendments.

IV. THE POOR LAW

The general law with reference to indigent persons in the State of Pennsylvania is the Act of 1925.[7] The Act is divided into fifteen chapters each of which and its contents will be noted briefly.[8]

I. Preliminary Provisions

This covers such matters as what the Act does not include, the continuation of existing laws, the preservation of existing rights and liabilities. The Act does not provide a complete system for poor taxes. The Act supersedes and prevails over previous enactments found inconsistent or incompatible. The law does not have anything to do with the care of the insane, feeble-minded, epileptic, or habit cases; with the boards of health; to the common schools; with the constables; with the justices of the peace except as to their authority to grant orders of poor relief which is expressly withdrawn.[9] For laws with reference to the indigent insane, see Chapter VII.

The law in so far as it is a continuation of existing laws is intended as a continuation of existing laws and not as a new enactment.

A. Definitions

A poor person is defined as one who is unable to maintain himself or those dependent upon him.

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[6] Act of April 13, 1921, P. L. 1361, as amended by the Act of July 11, 1923, P. L. 1068.

[7] Act of May 14, 1925, P. L. 762, as amended by the following Acts of 1927: May 13, P. L. 1008; April 27, P. L. 407; March 22, P. L. 54; March 24, P. L. 63; April 7, P. L. 148. Another recent act along these lines is that of March 23, 1925, P. L. 63, providing for the right of county commissioners to purchase additional land for poor-houses.

[8] For a detailed discussion of the subject see "Report and Recommendations of the Commission to Codify and Revise the Laws Relating to Poor Districts and the Care of the Poor," Harrisburg, February, 1925.

[9] Act of May 14, 1925, P. L. 762, Sec. 2.

A settlement of a person is his right under the provisions of this Act, to relief in any particular poor district.[10]

A public charge is defined as a person to whom poor relief from public funds is necessary for his maintenance—a pauper.

B. Poor Districts

II. Creation and Administration of Poor Districts

This chapter includes the following provisions. Each county is made a poor district with exceptions. The four classes of districts are described. The disposition of property of the old district is provided for, the election of officers, the provisions for changing to the new system with new property.

Each county is made a poor district with five exceptions:[11]

(1 and 2) The poor districts in Philadelphia and Allegheny Counties shall remain as at present fixed and administered and shall not become subject to any of the provisions of this Act.

(3) County of McKean shall continue a separate poor district as at present.

(4) Counties of Carbon, Luzerne, Centre, Columbia, Lycoming, Montour, Northumberland, Susquehanna, Wayne, and Lackawanna shall be excepted so far as relates to to the territorial subdivision thereof into districts.

(5) The poor district in Westmoreland County shall retain its name and be administered as at present.

(6) The Counties of Fulton and Cameron by the Act of March 24, 1927, No. 43, went back to the old township and borough system.

Four classes of districts are established:

Class 1—Consists of counties having a population of 1,500,000 inhabitants and over.

Class 2—Consists of counties having a population of 800,000 and more, but less than 1,500,000 inhabitants.

Class 3—Consists of counties having a population of more than 100,000 and less than 800,000.

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[10] *Ibid.*, Sec. 10.

[11] *Ibid.*, Sec. 200, as amended by Act March 24, 1927, P. L. 63.

Class 4—Consists of counties having a population of less than 100,000.

The Act provides all machinery for the new district to take over the property of the previously existing district, the sale of poor property and the reports and improvements.

C. Appointment of Poor Directors

Section 211 provides, "The directors of the poor shall elect on the first Monday of January in each year, or as near thereto as convenient, the following officers to serve for one year, and fix their compensation, that is, a superintendent, a matron or matrons, a physician, and may appoint an attorney, trained welfare worker, and all other necessary employes and assistants, all of whom shall be subject to removal by the directors of the poor at any time . . . "

III. Elections, Vacancies in Office

This chapter prescribes the number of directors and their election. The number of directors is fixed at three in all districts of the third and fourth class, and in all other districts except where a different number now prevails, and their term is fixed at four years.

Vacancies are supplied by appointment from the Court of Quarter Sessions.

IV. Salaries

V. Records and Reports

The directors shall keep records prescribed by the Department of Welfare, under penalty of a fine of not less than one hundred dollars.[12]

Superintendents or managers or persons in charge of the institutions for the treatment of disease, confinement, or where persons are committed by process of law, are required to keep a record of all personal and statistical particulars relative to the inmates as directed by the State Registrar.[13]

Reports to the Anatomical Board shall be made by persons having charge over dead human bodies required to be buried

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[12] Act of May 14, 1925, P. L. 762, Sec. 500.
[13] *Ibid.*, Sec. 501.

at the public expense. The body shall be held subject to claim of a relative by blood or marriage, for thirty-six hours after death; the body shall be held subject to the demand of any friend or any representative of a fraternal society, of which the deceased was a member, or a representative of any charitable organization, for burial within twenty-four hours after death at the expense of such person. If the deceased was an honorably discharged soldier, sailor or marine of the United States or of the militia of the State of Pennsylvania, the body shall be buried in accordance with the law relating to such persons. In the event that no such claim is made the body shall be delivered to such persons as are designated by the State Anatomical Board, to be removed and to be used within the State for the advancement of medical science. If the agent of the Anatomical Board deems the body unfit for anatomical purposes, he shall notify the poor directors, or the county commissioners, who shall direct some person to take charge, and the expenses shall not be less than thirty-five dollars, or more than fifty dollars, for each body buried.[14] Where any person fails to deliver the body of a deceased indigent and the body shall become unfit for anatomical purposes and shall be so certified by a duly authorized officer or agent of the board, the body shall be buried and the person so failing to deliver the body shall pay to the county treasurer the expense so incurred. Suit may be started to recover this money by the poor directors, or the county commissioners.

VI. Directors of the Poor

This includes the following provisions: Directors are declared county officers; the Act applies throughout the State; Directors are not to be interested in contracts; contracts of $500 or more to be in writing; the penalty for violation; Directors authorized to attend conventions, expenses to be paid by the district.

VII. Real Property of Poor Districts

This covers the real property of poor districts.

Plans of mental hospitals or almshouses shall be approved by

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[14] Act of May 14, 1925, P. L. 762, Sec. 502.

the Department of Welfare. It also gives the right of eminent domain and the procedure for taking land.[15]

Districts may require bond from contractor; the right to sue thereon; Common Pleas Courts authorized to decree sale of poorhouse property; procedure thereon; the right of eminent domain; property of poor district to be security for land taken; appointment of viewers to fix compensation; viewers to estimate damages and report to court; appeals; damages to be paid into court when title disputed.

VIII

D. Settlement

This chapter discusses settlement; how gained; order of removal; liability for costs; the jurisdiction of the court of Quarter Sessions; the care of the transient; leaving a poor person in a district.

A settlement under the provisions of this Act may be gained in any poor district by any person not a public charge, married or single, who bona fide comes to inhabit therein and continues to reside there for one year. Persons born in a place, whether legitimate or illegitimate, shall be deemed to be settled there unless the parent having their custody be settled elsewhere and all children shall follow the settlement of the parent or parents, stepfather or stepmother having their custody, until the age of sixteen years.[16]

Where a person has no settlement in the particular district wherein he has become or is likely to become a public charge, it is the duty of the directors as soon as may be to notify the directors of the district of his settlement of the facts and from the time of such notice the cost of his relief shall be charged to the district of his settlement.[17]

If the directors so notified refuse or neglect settlement or to make arrangements for his proper support and maintenance, the directors furnishing such relief may apply to the Court of Quarter Sessions for a citation to the directors so

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[15] Act of May 14, 1925, P. L. 762, Sec. 700.
[16] Act of May 14, 1925, P. L. 762, Sec. 800.
[17] *Ibid.*, Sec. 801.

refusing or neglecting, thus placing the matter before the court for determination.[18]

The court may determine the liability for costs in such cases and also has full and complete authority and jurisdiction to enforce its orders and directions.[19]

Provision is made for the care of the transient. If a person comes out of one poor district into another and happens to fall sick or die before he has gained a new settlement, so that he cannot be removed, the directors shall notify the directors in the district of his last settlement, and upon their refusal to defray the expenses of maintenance or burying of the person, application may be made to the court.[20]

If anybody brings or sends a poor person into a new poor district other than the one where he was legally settled and there leaves or attempts to leave him with the intent to relieve himself or some other district of the maintenance of such person, he shall forfeit one hundred dollars for every such person and be liable to pay all the costs and maintenance of such person while he is in the district, or removal, and be obliged to convey him out of the Commonwealth, or out of the district, and support him at his own expense.[21]

IX

E. Powers of Poor Directors

This chapter covers maintenance of poor persons; poor persons unable to work; poor may be employed on highways; maintenance of poor in almshouses of adjoining district; children between two and sixteen years of age not to be kept in almshouses; placing children; quarantined persons considered "needy and indigent poor"; relief of indigent deaf and dumb; removal of deaf and dumb to care of certain associations; cost of maintenance thereof; appropriations to associations for relief of poor; burial of indigent persons.

It shall be the duty of the directors to provide, as herein directed, for every poor person within the district having a settle-

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[18] *Ibid.*, Sec. 801.
[19] *Ibid.*, Secs. 802 and 803.
[20] Act of May 14, 1925, P. L. 762, Sec. 804.
[21] *Ibid.*, Sec. 805.

ment therein who shall apply to them for relief where such directors are satisfied upon investigation that such relief is necessary. The relief may be granted as out-door relief, or the person may be committed to the poorhouse on written order of the director of the poor to be approved by the board within a month or by order of removal by the court.[22]

Poor persons unable to work because of age, disease, infirmity, or other disability, shall be maintained by the directors.[23]

It is lawful to employ poor persons, being males of sufficient ability, in opening or repairing any road or highway within the district.[24]

Where a poor district does not have a poorhouse it may contract with the authorities in an adjoining district for the maintenance of the poor.[25]

Children between two and sixteen years of age shall not be kept in almshouses longer than sixty days unless the child is an unteachable idiot, an epileptic, or paralytic, or otherwise disabled or deformed as to render him incapable of labor or service under penalty of a fine not exceeding one hundred dollars or imprisonment not exceeding six months.[26]

The poor authorities shall place all dependent children committed to their charge and who are over two years of age, with the exceptions named in the preceding section of this Act, in some respectable family or in some educational institution or home for children, and the child shall be visited not less than once every six months with regard to treatment and welfare.[27]

Where a person shall be quarantined and by reason of quarantine becomes unable to pay the expense of the maintenance or treatment of his family or himself during the period of the quarantine, he shall be considered a "poor person," or a "needy and indigent poor person" under this Act.[28]

The poor directors may contract with any association organized for the purpose of providing a home or remunerative em-

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[22] Act of May 14, 1925, P. L. 762, Sec. 900.
[23] *Ibid.*, Sec. 901.
[24] *Ibid.*, Sec. 902.
[25] *Ibid.*, Sec. 903.
[26] *Ibid.*, Sec. 904.
[27] Act of May 14, 1925, P. L. 762, Sec. 905.
[28] *Ibid.*, Sec. 906.

ployment for deaf and dumb or blind persons in Pennsylvania, for the care and maintenance at such home of an indigent, deaf and dumb or blind person who may be entitled to relief from such poor district.[29]

The Department of Welfare may direct any poor director to remove any deaf and dumb or blind inmate of an almshouse to the care of an association qualified under this Act and if the poor district fails to comply, the Department of Welfare may make and carry out a contract to remove the inmate.[30]

The poor district shall pay the cost of maintenance of such person when the contract is made by the poor district or by the Department of Welfare.[31]

The proper officer may make appropriations yearly to incorporated associations maintained by gifts and voluntary contributions and formed for the relief of the poor but not to corporations whose objects and purposes are limited to the members thereof or to any nationality or sect.[32]

The poor directors shall provide burial of all indigent persons other than travelers or honorably discharged soldiers, sailors or marines who shall die within their respective districts and whose bodies shall not be claimed by relatives, friends, representatives of a fraternal organization of which the deceased is a member, representatives of any charitable organization or the Anatomical Board. The expense of such burial shall not be less than twenty-five dollars or more than seventy-five dollars.[33]

X

F. Liability for Support

This chapter covers the estate of a pauper liable for the expense of his maintenance; poor authorities may sue for moneys expended; status of claim against real estate of deceased pauper; guardianship of pauper; leasing of real estate for paupers; poor authorities to sue for and recover

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[29] *Ibid.*, Sec. 907, as amended by the Act of March 22, 1927, P. L. 54.
[30] *Ibid.*, Sec. 908, as amended by the Act of March 22, 1927, P. L. 54.
[31] *Ibid.*, Sec. 909.
[32] Act of May 14, 1925, P. L. 762, Sec. 910.
[33] *Ibid.*, Sec. 911.

property of paupers; poor authorities to collect money due paupers; form of action; refund of unexpended money belonging to pauper; seizure of property of deserters; security for appearance at court; court to make order; relatives liable for support; attachment may issue upon default; penalty for not complying with order of support; order on relative for maintenance; statue of limitations no defense.

The estate of a pauper shall be liable for the expense of his support, maintenance and burial incurred by any poor district whether owned at the time such expenses were incurred or acquired thereafter. The balance of the chapter provides ways and means by which the authorities may secure the estate.[34]

The husband, wife, children, father, mother, grandparents, and grandchildren respectively, of every poor person shall at their own charge, being of sufficient ability, relieve and maintain such poor person as the Court of Quarter Sessions shall order and direct. The procedure is outlined for compelling obedience to the court order. The statute of limitations is no defense.[35]

XI

G. Vagrants

This chapter discusses who are vagrants; commitment of vagrants; employment for vagrants; return of person without settlement to their homes; discharge of vagrants; buildings and enclosures for vagrants; fees; disposition of fines; almshouses declared workhouses; certificates of discharge; employment of prisoners on poor farms; liability of warden or keeper for escape.

Vagrants are described as follows:

1. All persons who shall unlawfully return into any district whence they have been legally removed without bringing a certificate from the proper authorities of the city or district to which they belong, stating that they have a settlement therein.

2. All persons who shall refuse to perform the work which shall be allotted to them by the overseers of the poor, as provided

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[34] Act of May 14, 1925, P. L. 762, Chapter X, Sec. 1000 et seq., as amended by the Act of April 27, 1927, P. L. 407.

[35] Act of May 14, 1925, P. L. 762, Sec. 1012.

by the Act of June 13, 1836, entitled "An act relating to the support and employment of the poor."

3. All persons going about from door to door or placing themselves in streets, highways, or other roads to beg or gather alms, and all other persons wandering abroad and begging who have no fixed place of residence in the township, ward or borough in which the vagrant is arrested.

4. All persons who shall come from any place without this Commonwealth to any place within it, shall be found loitering or residing therein and shall follow no labor, trade, occupation or business and have no visible means of subsistence and give no reasonable account of themselves or their business in such place.

5. Husbands who shall desert or refuse without reasonable cause to maintain and support their wives and family.[36]

Arrests of persons offending shall be made by a constable or police officer and the person shall be conveyed to a justice of the peace or magistrate and be committed by him to labor upon a county farm or upon the roads and highways of any city, township or borough, or in any house of correction, poorhouse, workhouse, or common jail, not less than thirty days and not more than six months. Appeal may be had to the Court of Quarter Sessions.[37]

The custodian of any vagrant thus committed shall make active efforts to provide work for him unless he is disqualified by sickness, old age, or casualty, and when labor cannot be provided in the place to which the vagrant is committed the custodian may contract for labor elsewhere. The work shall be suited to the proper discipline, health and capacity of such vagrant, and he shall be fed, clothed in the manner suited to the nature of the work and the condition of the season, and suitable lodging shall be provided for him.[38]

If any person shall request the director of the poor to assist him in returning to his home but claims he cannot pay for the transportation expenses, the director of the poor shall find

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[36] Act of May 14, 1925, P. L. 762, Sec. 1100.
[37] *Ibid.*, Sec. 1101.
[38] Act of May 14, 1925, P. L. 762, Sec. 1102.

employment for the applicant and shall take the earnings and reasonable additions from the public treasury to return the individual to his home.[39]

The custodian may discharge the vagrant at any time during the commitment upon not less than ten days' good behavior, or upon satisfactory security that he shall not become a charge upon the public within one year of the day of the discharge.[40]

The directors may make suitable provision for buildings and enclosures for vagrants [41]

The law provides for fees and fines.[42]

All almshouses are declared to be workhouses and the vagrant may be compelled to work when able, not less than six hours a day.[43]

A certificate of discharge is to be given to the vagrant, which shall exempt him from any further arrest for vagrancy for a period of five days and the custodian may also give the discharged vagrant a reasonable sum of money to defray his expenses in securing employment.[44]

The authorities may employ prisoners on poor farms under the direction of the warden or keeper of the jail.[45]

XII

H. Sanatoria and Hospitals

This chapter covers hospitals for tuberculosis; equipment thereof; appropriation to hospital or society; appropriation limited; inspection by county commissioners; county hospital for contagious diseases; county commissioners to provide; approval of plans by commissioner of health; manner of construction; conduct and maintenance of hospitals; payment of expenses; removal of contagious diseases to hospital.

Poor districts may acquire lands, supply, erect and equip

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[39] *Ibid.*, Sec. 1103.
[40] *Ibid.*, Sec. 1104.
[41] *Ibid.*, Sec. 1105.
[42] *Ibid.*, Sec. 1106.
[43] *Ibid.*, Sec. 1107.
[44] Act of May 14, 1925, P. L. 762, Sec. 1108.
[45] *Ibid.*, Sec. 1109.

hospitals or sanatoria for the care and treatment of indigent persons afflicted with tuberculosis.[46]

All plans shall be according to those approved by the State Department of Health.[47]

Any appropriation may be made to the hospital or society which shall not exceed for each of the indigent inmates, the sum of twenty dollars per week, payable every three months, at the end of the period.[48]

There shall be inspection by county commissioners of the hospitals or sanatoria.[49]

Counties may construct and maintain hospitals for the care and treatment of persons suffering from contagious diseases.[50]

The balance of this chapter covers the approval of the plans by the commissioner of health, the maintenance of the hospital and the removal of contagious diseases to the hospital.

XIII

I. Special Revenue Provisions

This chapter covers record of fines for use of poor; neglect of duty by justice; duty of clerk of court; Sheriff to pay over fines collected; gifts to poor construed; same to be received by directors.

The procedure to be followed by a justice of the peace or magistrate in receiving fines or penalties or property for the use of the poor, is outlined in this chapter.[51]

All gifts of property for the poor shall be made to the authorities of the poor district for the use of the poor particularly.

XIV. Audit of Accounts
XV. Joint Districts

This chapter covers purchase or lease of real estate and erection of buildings by Directors of two or more districts; administra-

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[46] *Ibid.*, Sec. 1200.
[47] *Ibid.*, Sec. 1201.
[48] *Ibid.*, Sec. 1202.
[49] Act of May 15, 1925, P. L. 762, Sec. 1204.
[50] *Ibid.*, Sec. 1205.
[51] *Ibid.*, Chapter XIII.

tion by joint board; organization of joint boards; apportionment of costs among districts uniting; authority to borrow money,

V. OLD-AGE PENSION COMMISSION

A commission to study the subject of old-age pensions with special reference as to the advisability and practicability of a contributory system as against the straight pension idea, was created by the Act of May 13, 1925, P. L. 692. Another law provides that a new commission be established to wind up the affairs of the Old-Age Pension Commission.[52] This procedure was necessary because the Old-Age Assistance Law[53] was found unconstitutional by the Supreme Court of Pennsylvania in the case of Busser vs. Snyder, 282 Pa. 440, on the ground that it violated Article III, Section 18, of the Constitution of 1873 which reads as follows: "No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation or association."

VI. GYPSIES

The boards of health of the State are authorized to require roving bands, or bands of nomads, commonly called gypsies, to leave a community under penalty of a fine of fifty dollars and in default of the payment of such fine and costs, to be sentenced to undergo imprisonment for thirty days.[54]

VII. LEGAL RESIDENCE

The subject of legal residence has been considered by the state legislature and by the courts over a long period of time. Perhaps the most comprehensive discussion of the subject can be found in a paper entitled, "Poor Settlements in Provincial Pennsylvania," by the Honorable Joseph L. Kun, read at the Forty-second Convention of the Association of Directors of the Poor and Charities and Corrections held at Altoona in 1916,

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[52] Act of April 4, 1925, P. L. 146.
[53] Act of May 10, 1923, P. L. 189.
[54] Act of April 7, 1927, P. L. 144.

and printed in the Proceedings of that meeting. The statute law covering this subject may be briefly summarized as follows: By the common law of England a settlement was acquired by birth; by parentage; by marriage; by forty days' residence and notice; by renting a property for a year; by being charged with and paying public taxes; by holding a public office for a year; by hiring for a year when unmarried and childless; by being bound as an apprentice; by having an estate and residing there for forty days.

In addition to that there are laws in Pennsylvania in 1700, 1705, May 31, 1718; March 29, 1735; August 17, 1749; March 9, 1771; April 6, 1776, Chapter 1719; March 31, 1812, 5 Sm. L. 391; April 2, 1821.

For a long time the Act of June 12, 1836, P. L. 539, controlled the subject until the Act of April 6, 1905, P. L. 112, was passed. The more recent law is the Act of 1909.

The Act of May 1, 1909, P. L. 307, Sec. 3, supplies at least the first five paragraphs of the Act of 1836 providing a settlement may be given in any district as follows:

"*Manner of gaining settlement*—A settlement may be gained in any district as follows:

1. By any person who shall come to inhabit in the same, and who shall, for himself and on his own account, execute any public office legally placed therein during one whole year.

2. By any person who shall be charged with and pay the proportion of any public taxes or levies for one year.

3. By any person who shall bona fide take a lease of any real estate of the yearly value of ten dollars, and shall dwell upon the same for one whole year, and pay the said rent.

4. By any person who shall become seized of any freehold estate within such district, and who shall dwell upon the same for one whole year.

5. By any unmarried person, not having a child, who shall be lawfully bound or hired as a servant within such district, and shall continue in such service during one whole year."

Section 4 of the same Act provides:

"*Settlement of married woman*—Every married woman shall be deemed, during coverture and after her husband's death, to

be settled in the place where he was last settled; but, if he shall have no known settlement, then she shall be deemed, whether he be living or dead, to be settled in the place where she was last settled before her marriage."

Section 5 of the same Act provides:

"*Settlement of illegitimate minor*—Every illegitimate minor child shall be deemed to be settled in the place where the mother was legally settled at the time of the birth of such child."

In addition to these there is also the Act of July 12, 1923, P. L. 1074, Sec. 1:

"*Settlement of married woman*—Every married woman shall be deemed, during coverture, whether living with her husband or apart from him, or after her husband's death, to be settled in the place where she has gained a settlement in the manner provided by law for any other person."

The Acts and the various points have been extensively construed in the following cases:

Butler vs. Sugarloaf 6 Pa. 262; Lewisburg vs. Augusta 2 W. & S. 65; Danville vs. Mahoney 2 Luzerne Legal Reg. 457; Shippen vs. Gaines 17 Pa. 38; Bricker County vs. Phila. 5 S. & R. 417; Bucks County vs. Briar Creek Township 10 S. & R.; Huston vs. Benezette 7 Pa. C. C. 383; Lawrence Overseers vs. Del. Overseers 148 Pa. 380; Center Township Overseers vs. Mifflin County Poor Directors 3 Pa. C. C. 555; Del. Township Overseers vs. Anthony Township Overseers 15 Pa. C. C. 431; Laven vs. Del. 138 Pa. 380; Beaver vs. Rose 98 Pa. 636; Huntington Township vs. Salem Township 8 Luzerne Legal Reg. 234; Milton Borough vs. West Chillisquaque 20 Pa. C. C. 547; Walker Overseers vs. Milford Overseers 12 Pa. C. C. 321; Brady vs. Clinton 148 Pa. 311; Woodward Township vs. City of Lock Haven 13 Pa. C. C. 157; Mifflin Township vs. Elizabeth 18 Pa. 17; Burrel Township vs. Pittsburgh Guardians of the Poor, 62 Pa. 472; Gregg Overseers vs. Miles Overseers 12 Dist. 215; Shrewsbury Township Poor District vs. Penn Township Poor Dist. 33 Sup. Ct. 378; Butler vs. Sugarloaf 6 Pa. 262; King vs. Tillingham, 1 Barn. & Adol. 180; Cascade vs. Lewis, 11 Pa.

C. C. 282; Duffy vs. Ogden, 64 Pa. 240; Queen vs. Inhabitants of St. Mary Warwick, Ellis & Blackburn, 815; Forks vs. Eason, 2 Wharton 405; Republica vs. Caernarvon, 2 Yeates 510; Com. vs. Jennings 1 Bro. 197; Lewisburg vs. Augustas 2 W. & S. 65; Overseers of Penn Township vs. Overseers of Locust Township; 14 Pa. C. C. 162; Comrs. of the Rouse Estate vs. Poor Directors of McKeehan County 169 Pa. 116; Cascade Township vs. Plunkett's Creek Township 17 Pa. C. C. 450; Lewistown vs. Granville 5 Pa. 283; Bellefonte vs. Somerset County 168 Pa. 286; Penn's Creek vs. South Bend, 1 Pennypacker 408; Bradford vs. Huston 15 Pa. C. C. R. 323; Reading vs. Cumru, 5 Binn. 81; Tioga vs. Lawrence, 2 Watts, 43, West Buffalo vs. Walker, 7 W. 171; Moreland vs. Davidson, 71 Pa. 371; Lewistown vs. Granville, 5 Pa. 283; Huntington vs. Fairmount, 2 Luz. Leg. Reg. 445; Briar Creek vs. Mount Pleasant, 8 Watts 431; Gregg vs. Half Moon, 2 Watts. 342; Shickshinny vs. Montour, 6 Luz. Leg. Reg. 173; Fayette Township vs. Fermanagh, 11 Pa. C. C. R. 70; Moreland vs. Davidson, 71 Pa. 377; Heidelberg vs. Lynn, 5 Wh. 430; Jersey Shore vs. Nippenose, 18 Pa. C. C. R. 473; Loyalsock Township vs. Johnsonburg Borough, 14 Pa. C. C. 323; Turbett Township vs. Port Royal Borough Overseers, 33 Sup. Ct. 520; Schuylkill County poor Directors vs. Northampton Poor Directors, 10 North 401; Buffalo Township vs. Lewisburg Borough, 1 Pa. C. C. R. 121; Lock Haven vs. Chapman Township, 22 W. N. C. 114; Poor District of Homer vs. Poor Dist. of Austin, 19 Pa. C. C. R. 546; Buffalo vs. White Deer, 15 Pa. 182; Del. vs. Zerbe, 3 Pa. C. C. R. 643; Williamsport vs. Eldred, 84 Pa. 429; Lake District vs. South Canaan, 37 Pa. 19; Central Poor District of Luzerne County vs. Directors of Jenkins Township, Pittston Borough and Pittston Township 3 Sup. Ct. 16; Kittanning Borough Poor District vs. Armstrong County 34 Pa. C. C. 331; Parker City vs. Dubois Borough, 20 W. N. C. 81; Limestone Township vs. Licking Township, 1 Pennypacker 475; Schuylkill County Directors vs. Jackson Township Overseers, 29 Sup. Ct. 567.

Act of March 21, 1806, 4 Sm. L. 326, Sec. 9.
Act of April 14, 1834, P. L. 333, Sec. 68, et seq.
Act of May 19, 1887, P. L. 131, Sec. 1.
Act of April 14, 1834, P. L. 333, Sec. 75.

Act of April 17, 1913, P. L. 80, Sec. 1.
Act of April 28, 1899, P. L. 117.
Act of April 18, 1919, P. L. 73.
Act of April 14, 1835, P. L. 232, Sec. 8. Visiting in prison clients in Philadelphia.
Act of April 26, 1883, P. L. 15, Sec. 9.
Act of April 2, 1868, P. L. 3, Sec. 9, re fees.
Act of May 5, 1876, P. L. 112.
Act of May 6, 1915, P. L. 261, Sec. 1.
Act of June 16, 1836, P. L. 784, Sec. 28.
Act of May 19, 1879, P. L. 66 Sec. 1.
Act of June 4, 1919, P. L. 384.
Act of May 8, 1909, P. L. 475.

Chapter III

LAWS RELATING TO CRIMES

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I. CRIMES

The Act of 1860 substantially codifies as of that date the criminal law in Pennsylvania.[1] The criminal procedure act[2] substantially codifies that side of the matter. Since that time many new laws have been added.

Certain specific crimes have been selected about which it is believed information would likely be needed by social agencies. These are included in the present chapter with a brief statement as to criminal procedure, but it must not be assumed that any more than a small portion of each of these fields is covered.

The report of the commissioners appointed to revise the penal code of Pennsylvania, which was published December 4, 1922, in two volumes, but which was not enacted into law, should be consulted for an orderly arrangement of the subject. On the subject of criminal procedure the Report of the Crimes Survey Committee of the Philadelphia Law Association, 1926, is a valuable authority.

Abandoning Child

See Chapter I, section on "Crimes and Offenses against Children."

[1] Act of March 31, 1860, P. L. 382.
[2] *Ibid.*, P. L. 427.

Abortion

First. Abortion followed by death is a felony, subject to a fine not exceeding Five Hundred Dollars and imprisonment by separate or solitary confinement at labor, not exceeding seven years.[3]

Second. Procuring or attempting to procure an abortion is a felony, subject to a fine not exceeding Five Hundred Dollars and imprisonment by separate or solitary confinement at labor, not exceeding three years.[4]

The first of these two sections meets the cases of the death of the pregnant woman following any criminal attempt to procure her miscarriage, or the death of the child with which she may be quick. It also meets the case of the death of a woman from drugs or instruments applied with attempt to procure abortion when such woman is not actually pregnant.

The second of these sections punishes the administration of drugs, or the use of instruments with attempt to procure abortion, although no abortion is actually produced and although the female survives the operation.

Advertisement or the sale of medicines to procure abortion, or prevent conception, is a misdemeanor, subject to a fine not exceeding One Thousand Dollars, or imprisonment not exceeding six months, or both. The act does not affect teaching in regular medical colleges, or the publication of standard medical books.[5]

Selling, lending, giving away or exhibiting or having in one's possession with intent to sell, lend, or give away, medicines, etc., for the prevention of conception, or for causing unlawful abortion, shall be subject to imprisonment of not more than one year, or a fine of not more than One Thousand Dollars, or both.[6]

Accessories

Every principal in the second degree, or accessory before the fact to any felony for whom no punishment is provided, shall be

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[3] Act of March 31, 1860, P. L. 382, Sec. 87.
[4] *Ibid.*, Sec. 88.
[5] Act of March 16, 1870, P. L. 39, Sec. 2.
[6] Act of May 12, 1897, P. L. 63, Secs. 1 and 2.

punishable in the same manner as the principal in the first degree is punishable; and every accessory after the fact to any felony for whom no punishment is provided shall be fined not exceeding Five Hundred Dollars and imprisonment with or without labor, not exceeding two years. Persons who shall counsel, aid or abet the commission of any misdemeanor, for whom no punishment is provided, shall be punished as the principal offender.[7]

As the guilt of the principal offenders in the second degree and accessories before the fact is morally the same as that of the principal offender, their punishment has been made the same. Accessories before the fact to felonies shall be treated as principals.[8] This section makes the accessories before the fact guilty of a substantive offense and subjects him to punishment for his crime without postponing it until the conviction of the actual perpetrator.

Accessories after the fact may be tried before, or after, or with the principal felon.[9]

Adulteration of Food

There are numerous laws in Pennsylvania dealing with the adulteration or mis-branding of food. The Department of Agriculture has the responsibility of enforcing the laws relating to the production, manufacture, transportation and sale of foods used for man.[10]

In particular, these laws relate to ice cream, chickory and coffee, meat, poultry, game and fish, eggs, lard, fruit syrups, non-alcoholic drinks, butter, candy, cheese, drugs, milk and cream, oleomargarine and vinegar. In any case involving food reference should be made to the statutes. There are too many to be condensed in the present volume.

See also Chapter VIII dealing with Public Health.

Adultery

"If any married man shall have carnal connection with any woman not his lawful wife, or any married woman shall have

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[7] Act of June 3, 1893, P. L. 286, Sec. 1.
[8] Act of March 31, 1860, P. L. 427, Sec. 44.
[9] Act of March 31, 1860, P. L. 427, Sec. 45.
[10] Act of June 7, 1923, P. L. 498, Article 15, Paragraph 1505. Also see Act March 31, 1860, P. L. 382, Sec. 69.

carnal connection with any man not her lawful husband, he or she so offending shall be deemed guilty of adultery," and fined $500 or imprisoned one year, or both.[11]

See also Fornication and Bastardy.

Adultery is the sexual offense when committed by a married person. The same act in an unmarried person is fornication. Bastardy occurs when as a result a child is born. The foregoing offenses are committed when the consent of the woman is obtained. When the woman does not consent the offense is rape, that is, where force is used. Where the act is induced by promises of marriage the offense is known as seduction. Young girls under sixteen years of age are regarded by the law as incapable of consenting, so the offense as to them is rape.

Advertising

The penalty for advertising merchandise, securities, etc. containing false statements is a fine not exceeding $500 for each offense or imprisonment not exceeding ninety days, or both. Newspapers and publishers acting in good faith are not subject to the act.[12]

There is a penalty for advertising cures for venereal diseases, fine not less than $500 or more than $1,000, and imprisonment not exceeding one year.[13], [14]

Assault and Battery *

There are several kinds of assault and battery of varying importance and of varying penalties as follows:

1. Simple assault and battery; the penalty is a fine not exceeding $1,000 and imprisonment not exceeding one year, or both.[15]

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[11] Act of March 31, 1860, P. L. 382, Sec. 36.

[12] Act of May 5, 1921, P. L. 382, No. 182.

[13] Act of April 21, 1921, P. L. 242, No. 123.

[14] See also Act of May 14, 1925, P. L. 714, No. 388, for advertising on a public highway; Act of March 20, 1913, P. L. 6, Sec. 1; Act of June 10, 1913, P. L. 467, Sec. 1; and Act of July 21, 1919, P. L. 1084, Sec. 1.

* Note: See also Mayhem, which involves assault on a limb or member of the body.

[15] Act of March 31, 1860, P. L. 382, Sec. 97.

2. Aggravated assault and battery; fine not exceeding $1,000 and imprisonment not exceeding three years.[16]

3. Assault and battery with intent to ravish; fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding five years.[17]

4. Assault with fire-arms and cutting, stabbing or wounding with intent to maim is a felony; fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding three years.[18] In this act it is necessary to show the intent to maim and disfigure and not to kill.

5. Maiming or injuring by means of explosives; fine not exceeding $500 and imprisonment by separate or solitary confinement not exceeding three years.[19]

6. Poisoning, stabbing, wounding and assault with intent to murder is a felony subject to fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding seven years.[20]

7. Assault with intent to kill is a felony; fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding seven years, or both.[21]

8. Assault and battery with intent to rob is a felony; fine not exceeding $1,000 and imprisonment by separate or solitary confinement not exceeding five years.[22]

9. Sending, delivering or using explosive or corrosive substances with intent to do grievous bodily harm is a felony; fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding three years.[23]

10. Administering drugs with intent to commit a felony is a felony; fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding five years.[24]

11. Assault and battery upon electors at or near polls is a misdemeanor; fine not less than $100 or more than $500 and

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[16] Act of March 31, 1860, P. L. 382, Sec. 98.
[17] Act of March 31, 1860, P. L. 382, Sec. 93.
[18] *Ibid.*, P. L. 382, Sec. 83.
[19] *Ibid.*, P. L. 382, Sec. 84.
[20] Act of March 31, 1860, P. L. 382, Sec. 81.
[21] Act of May 1, 1876, P. L. 92, Sec. 1.
[22] Act of March 31, 1860, P. L. 382, Sec. 102.
[23] *Ibid.*, P. L. 382, Sec. 85.
[24] *Ibid.*, P. L. 382, Sec. 86.

imprisonment not less than three months or more than one year.[25]

Automobiles

The Vehicular Code of Pennsylvania[26] provides regulations for the operation of motor vehicles. In it are included regulations as to vehicles and their equipment; registration and transfer of title to vehicles; registration and identification of vehicles; fees and taxes; highways and the power to regulate the use thereof; the operation of vehicles.

In this last group there are considered licenses and permits; suspension of license; offenses relating to licenses and permits; general principles relating to right of way; standing and parking; starting, stopping and turning; manner of making signals; approaching and passing vehicles; approaching and passing street cars and safety zones; speed limitations; reckless driving; duty in case of an accident; liability of owner for negligence of operators; liability for using vehicle without consent of owner.

Criminal penalties are imposed.

Barratry

This name is applied to the practice of "vexing others with unjust and vexatious suits." It is a misdemeanor, penalty, fine not exceeding $100, imprisonment not exceeding one year, or both.[27]

Bastards

Concealing the death of a bastard child whether or not it was murdered, is subject to imprisonment by separate or solitary confinement at labor not exceeding three years. The murder charge may be joint.[28], [29]

See also Fornication and Bastardy, Adultery.

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[25] Act of April 6, 1870, P. L. 53, Sec. 9.
[26] Act of May 11, 1927, P. L. 886.
[27] Act of March 31, 1860, P. L. 382, Paragraph 9.
[28] Act of March 31, 1860, P. L. 382, Sec. 89.
[29] Act of July 11, 1917, P. L. 774, and the Act of July 21, 1919, P. L. 1075. These cover the support for bastards.

Bawdy Houses

Keeping or leasing a bawdy house is a misdemeanor subject to a fine not exceeding $1,000 and imprisonment not exceeding two years.[30] Frequenting bawdy houses or taking money or valuables from the inmates is a misdemeanor subject to imprisonment not exceeding three years and a fine not exceeding $1,000 or either, or both.[31]

Bigamy *

If any person shall have two wives or two husbands at one and the same time, or if any person who has entered into a contract of marriage with another person whether the marriage be valid in law or not, shall, while the other contracting party be alive, and before said former marriage has been legally declared void or annulled by the decree of a proper court of record, go through any form of marriage recognized as binding under the laws of this Commonwealth with another person, whether the parties thereto cohabit thereafter as man and wife or not, it is a misdemeanor; fine not exceeding $1,000 and imprisonment of separate or solitary confinement at labor not exceeding two years, or both, and whereas the first marriage shall be valid in law the second and all subsequent marriages shall be bigamous and void. But if a husband or wife upon a false rumor, in appearance well founded, of the death of the other when the other person has been absent for two whole years, shall marry again, he or she shall not be subject to the penalties of fine or imprisonment. Apparently the other penalties are retained.[32]

If an unmarried person knowingly marries the wife or husband of another, whether they cohabit hereafter or not, it is a misdemeanor subject to a fine not exceeding $500 or imprisonment by separate or solitary confinement at labor not exceeding two years, or both.[33]

The indictment should be brought within two years after any act of cohabitation, or if there is none, then within two years from the date of entering into the bigamous marriage.

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[30] Act of March 31, 1860, P. L. 382, Sec. 43.
[31] Act of April 18, 1905 P. L. 202

* NOTE: See Chapter VI on "Marriage, Divorce, and Rights of Married Persons."

[32] Act of March 27, 1903, P. L. 102, Sec. 2.
[33] *Ibid.*, Sec. 3.

Blackmailing

If any person with intent to intimidate, annoy or levy blackmail or extort money, property or other valuable thing from any person whatsoever by means of threats, charges or accusations by written, printed or oral communications, injures the person, property, reputation or business of any person, it is a misdemeanor; imprisonment by separate or solitary confinement at labor or by simple imprisonment not exceeding three years and a fine not exceeding $1,000.[34]

Levying or attempting to levy blackmail is a misdemeanor; imprisonment not exceeding three years, fine not exceeding $1,000, or either or both.[35]

Breaking and Entering

Entering without Breaking. See Burglary.

*Bribery**

There are many laws on bribery. Bribery of state officials, juries, etc., is a misdemeanor subject to a fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding one year. The person accepting the bribe is guilty of a misdemeanor; fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding five years. The act exempts from prosecution a witness testifying in such a case. The taking of bribes by electors is punishable by a fine not exceeding $100 and imprisonment not exceeding six months. Bribing and intimidating electors carries as penalty a fine not exceeding $500 and imprisonment not exceeding two years.[36]

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[34] Act of May 27, 1897, P. L. 111.
[35] Act of June 9, 1911, P. L. 833.

*NOTE: The Act of June 8, 1881, P. L. 70; the Act of May 9, 1889, P. L. 162; the Act of April 29, 1874, P. L. 115; the Act of May 2, 1901, P. L. 120; and the Act of June 16, 1836, P. L. 715, Sec. 51, cover further phases of this subject.

[36] Act of March 31, 1860 P. L. 382, Secs. 48, 49, 50 and 51.

Burglary

Burglary is defined as wilfully and maliciously by night breaking or entering a building with intent to commit a felony. Fine not exceeding $1,000, imprisonment not exceeding ten years.[37]

A later act covers breaking and entering by day and entering without breaking. Fine not exceeding $500, imprisonment not exceeding ten years.[38]

Breaking and entering railroad cars is punishable by fine not exceeding $500 and imprisonment not exceeding four years.

Entering a building with intent to commit a felony by the use of explosives is subject to a fine not exceeding $1,000 and imprisonment not exceeding twenty-five years.[39]

Possession of burglars' tools with intent to use them feloniously is subject to a fine of not more than $500 and imprisonment not exceeding three years.[40]

Checks

See Frauds.

Common Scold

"A common scold, though not punishable under the statutory law, is still indictable under the common law (James v. Com. 12 S & R 220, 1824). This probably is the most common common-law offense. In 1921 there were fifteen persons arrested for being common scolds; of these ten were held for court and five were discharged by the committing magistrate; and in the same year there was one person so charged convicted and seven acquitted."[41]

Compounding Crimes

If any person having knowledge of the actual commission of certain specified crimes shall take money or other reward to compound or conceal the crimes, it is a misdemeanor; fine not exceeding $1,000, imprisonment not exceeding three years.[42]

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[37] Act of March 31, 1860, P. L. 382, Sec. 135.
[38] Act of March 13, 1901, P. L. 49.
[39] Act of April 22, 1905, P. L. 279.
[40] Act of March 14, 1905, P. L. 38.
[41] Report, Crimes Survey Committee, Law Association, Philadelphia, 1926, page 37.
[42] Act of March 31, 1860, P. L. 382, Sec. 10.

Conspiracies *

If two or more persons falsely and maliciously conspire to do any dishonest, malicious and unlawful act to the prejudice of another, it is a misdemeanor; fine not exceeding $500, imprisonment not exceeding two years.[43]

Conspiracy to charge or indict any other person in a criminal court is a misdemeanor subject to a fine not exceeding $1,000 and imprisonment not exceeding three years.[44]

Cruelty to Animals

A number of statutes dealing with this subject are collected in footnotes 45–63, inclusive.

Cruelty to Infants

For the law on this subject see Chapter I, sub-heading, "Crimes and Offenses against Children."[64]

Deadly Weapons

Criminal penalties are imposed for carrying concealed deadly weapons,[65] pointing deadly weapons,[66] manufacturing and selling toy deadly weapons.[67]

Disorderly Conduct

Making any loud, boisterous or unseemly noise or disturbance to the annoyance of the peaceable residents is a misdemeanor subject to a fine not exceeding $10 and in default of payment, imprisonment not exceeding thirty days.[68]

Disorderly conduct on railway cars or on picnic grounds is a

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* Note: It is extremely difficult to convict for conspiracy. Two persons do not usually conspire in public and the evidence available is often nothing more than suspicious or vague rumors. Care should be taken to distinguish between those bits of information which come in the form of gossip and general conversation and the evidence which is admissible in court.

[43] Act of March 31, 1860, P. L. 382, Sec. 128.

[44] *Ibid.*, Sec. 127.

[45] to [63] inclusive, cover the following: Act of March 31, 1860, P. L. 382 Sec. 46. Act of April 24, 1903, P. L. 296. Act of July 11, 1917, P. L. 818, Sec. 41. Act of March 29, 1869, P. L. 22. Act of June 9, 1891, P. L. 260. Act of May 6, 1909, P. L. 443. Act of July 22, 1913, P. L. 913. Act of May 5, 1911, P. L. 178. Act of June 20, 1891, P. L. 378. Act of April 3, 1872, P. L. 38.

[64] Act of June 3, 1911, P. L. 654.

[65] Act of March 18, 1875, P. L. 33.

[66] Act of May 8, 1876, P. L. 146.

[67] Act of June 4, 1885, P. L. 111.

[68] Act of May 2, 1901, P. L. 132.

misdemeanor subject to a fine not exceeding $10, and in default of payment, imprisonment* not exceeding thirty days. It is made the duty of the conductor to make the arrest.[69]

Disorderly Houses

The keeping of a common, ill-governed and disorderly house to the encouragement of idleness, gaming, drinking or misbehavior to the common nuisance and disturbance of the neighborhood, or orderly citizens, is a misdemeanor; fine not exceeding $500, or imprisonment not exceeding one year, or both.[70]

Drugs

See Chapter VIII, "Public Health."

Exhibiting Insane or Deformed Persons

It is unlawful to exhibit for pecuniary consideration or reward in a public place insane, idiotic or deformed persons or imbeciles, fine not exceeding $1,000 or imprisonment not exceeding six months, or both.[71]

Escape of Prisoners

The escape of prisoners and breaking jail by any person arrested, and imprisoned, charged with an indictable offense is a misdemeanor, imprisonment not exceeding two years.[72]

An additional penalty for breaking jail may be imposed.[73]

Aiding in the escape of inmates of charitable, penal or other publicly supported institutions is an offense; penalty, fine not in excess of costs of prosecution, and $50, imprisonment in county jail not exceeding three months.[74]

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* Note: It is customary in many places to use the charge of disorderly conduct to cover cases of drunkenness and street walkers who are suspected of soliciting.

[69] Act of May 19, 1913, P. L. 223.
[70] Act of March 31, 1860, P. L. 382, Sec. 42.
[71] Act of June 25, 1895, P. L. 291.
[72] Act of March 31, 1860, P. L. 382, Sec. 3.
[73] Act of June 10, 1885, P. L. 79.
[74] Act of June 23, 1897, P. L. 201.

A further statute makes the penalty fine not exceeding $500 and imprisonment not exceeding two years.[75]

An officer who permits a prisoner to escape is also guilty of an offense, fine not exceeding $500, imprisonment not exceeding two years. A similar penalty is imposed for negligence of the officer.[76]

False Pretense

See Frauds.

Fornication and Bastardy

See Chapter I on "Support of Illegitimate Children."
See also Adultery, Seduction.

Fortune Telling

Pretending for gain to predict future events, or to effect any purpose by spells, charms, necromancy or incantation, is a misdemeanor; for the first offense the penalty is imprisonment not more than two years, nor less than fifteen days, and a fine of not more than $100, nor less than $10; for the second offense, imprisonment not exceeding five years, or fine not exceeding $500. The same act makes it unlawful to tell fortunes or to advertise such business, or to administer love potions.[77]

Frauds

Under this section the law considers such matters as cheating lodging-house keepers;[78] removing or secreting property to defraud creditors;[79] concealing of goods from officers;[80] selling goods labeled "gold", "sterling";[81] the use of false statements of financial condition to obtain credit;[82] making or delivering worthless checks;[83] excessive use of hired teams and conveyances;[84] removing, altering, defacing, covering, or destroying the

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[75] Act of March 31, 1860, P. L. 382, Sec. 4.
[76] *Ibid.*, Secs. 5 and 6.
[77] Act of April 8, 1861, P. L. 270.
[78] Act of March 31, 1860, P. L. 382, Sec. 112.
[79] Act of April 22, 1903, P. L. 242.
[80] Act of May 20, 1913, P. L. 246.
[81] Act of June 24, 1897, P. L. 186 and Act of June 15, 1897, P. L. 163.
[82] Act of May 8, 1913, P. L. 161.
[83] Act of April 18, 1919, P. L. 70.
[84] Act of April 27, 1909, P. L. 248.

manufacturer's serial number or identification mark on a machine or other apparatus for the purpose of selling or destroying the identity of any such machine is unlawful; fine not less than $100 or more than $500, or imprisonment not to exceed six months, or both.[85]

Fugitives

The removal of fugitives from justice out of the state without requisition is unlawful, subject to imprisonment of one year.[86]

Gambling

The law prohibits the establishment or leasing of gambling houses, enticing others to visit gambling houses and provides the procedure for proceeding in such cases; a fine not exceeding five hundred dollars and imprisonment not exceeding one year.[87] Using a gambling house or leasing a house for gambling is unlawful; fine not exceeding five hundred dollars or imprisonment not exceeding one year or both.[88] The punishment for being a common gambler is imprisonment by separate or solitary confinement at labor not exceeding five years and a fine not exceeding five hundred dollars. It is unlawful to engage in pool-selling, book-making, or recording bets on races or elections; subject to a fine of not more than five hundred dollars and imprisonment of not more than one year, or either, or both.[89]

The law also prohibits such acts as setting up any game or device of address or hazard, procuring assemblage of persons for the purpose of gambling or leasing premises for gambling; any person so offending is guilty of a misdemeanor; fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both.[90] The making, manufacturing, or assembling of gambling devices, is prohibited; fine not exceeding one thousand dollars or imprisonment not exceeding one year, or both.[91]

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[85] Act of May 31, 1923, P. L. 476.
[86] Act of May 24, 1878, P. L. 137.
[87] Act of March 31, 1860, P. L. 382, Secs. 55, 57, 58, 59, 60 and 61.
[88] Act of April 29, 1925, P. L. 185.
[89] Act of May 22, 1895, P. L. 99.
[90] Act of April 7, 1925, P. L. 185.
[91] Act of April 29, 1925, P. L. 357.

Indecency

If a person commits any notorious act of public indecency tending to debauch the morals or manners of the people, it is a misdemeanor subject to a fine not exceeding $100 or imprisonment not exceeding one year, or both.[92]

Incest

See Chapter VI on "Marriage, Divorce and the Rights of Married Persons."

Kidnapping

See Chapter I, section on "Crimes and Offenses against Children."

*Larceny**

Larceny is the name given to offenses where one person with criminal intent takes personal property of another.

There are the following various kinds of larceny:—

1. Larceny itself is a felony: subject to a fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding three years.[93]
2. Larceny by bailee, similarly punished.[94]

Larceny from the person is a felony; fine not exceeding $1,000 and imprisonment by separate or solitary confinement not exceeding five years.[95] If any person in the daytime shall break and enter a building or wilfully and maliciously either by day or night without breaking, enter the building, with intent to commit any felony, it is a felony; fine not exceeding $500, imprisonment by separate or solitary confinement at labor not exceeding four years.[96] Larceny of wire for transmitting elec-

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[92] Act of March 31, 1860, P. L. 382, Sec. 44.

*Note: Conversion, fraudulent conversion, and larceny by bailee are three offenses which include the wrongful act of a person having the property of another in his possession who uses that property for his own purposes.

[93] Act of March 31, 1860, P. L. 382, Sec. 103.
[94] *Ibid.*, Sec. 108, as amended by the Act of May 5, 1927, P. L. 776, No. 403.
[95] *Ibid.*, Sec. 102.
[96] *Ibid.*, Sec. 136.

tricity is a felony; fine not exceeding $500, imprisonment by separate or solitary confinement at labor not exceeding seven years.[97] Stealing metal and other fixtures belonging to any building is a felony; fine not exceeding $500, imprisonment by separate or solitary confinement at labor not exceeding three years.[98]

Larceny of bank bills and other securities is a felony; fine not exceeding $500 or imprisonment by separate or solitary confinement not exceeding two years, or either, or both.[99] Horse stealing is a felony; fine not exceeding $500, imprisonment by separate or solitary confinement at labor not exceeding ten years.[100] Stealing* or receiving stolen motor vehicles is a felony; fine not exceeding $5,000 and imprisonment by separate or solitary confinement at labor not exceeding ten years.[101]

Libels

If any person shall write, print, publish or exhibit any malicious or defamatory libel either tending to blacken the memory of one who is dead or the reputation of one who is alive and either by exposing him to public hatred, contempt, or ridicule, it is a misdemeanor; fine not exceeding $1,000 or imprisonment not exceeding twelve months, or both.[102] Securing publication of libelous statements is a misdemeanor; fine not exceeding $500 and imprisonment not exceeding two years, or either.[103] The jury may find that the information is proper for public investigation as to a public official or candidate for public office. In such cases the truth may be given in evidence.[104] It is a misdemeanor to send anonymous, libelous communications; fine not more

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[97] Act of March 8, 1905, P. L. 33.
[98] Act of March 31, 1860, P. L. 382, Sec. 106.
[99] *Ibid.*, Sec. 104.
[100] *Ibid.*, Sec. 105.

* Note: See also Receiving Stolen Goods. Larceny relates to stealing the goods of another. Receiving stolen goods is a separate offense.
See also law prohibiting the taking of property growing or being on the land of another.

[101] Act of May 1, 1919, P. L. 99. Act of May 1, 1925, P. L. 440.
[102] Act of March 31, 1860, P. L. 382, Sec. 24.
[103] Act of June 3, 1893, P. L. 273.
[104] Act of April 11, 1901, P. L. 74.

than $500, imprisonment not more than one year.[105] It is a misdemeanor to make false statements* concerning financial institutions; fine not more than $5,000 and imprisonment at hard labor not exceeding five years.[106]

Liquor

See Chapter VIII on "Public Health."

Lotteries

It is unlawful to set up and conduct lotteries and the lotteries are declared void; penalty, fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding one year.[107] It is also unlawful to sell or advertise lottery tickets or policies; the penalty is imprisonment by separate or solitary confinement at labor not exceeding two years, and a fine not exceeding $1,000, or either, or both.[108]

Lynching

The entire subject of lynching is covered by the Act of 1923,[109] which states that any person accused of crime who has reasonable cause to believe that he will be denied the equal protection of the law by the county within whose jurisdiction he is, is entitled to the protection of the courts and officers of the State. Provision is made for petition to the Prothonotary of the Superior Court after which the state police are authorized to arrest and detain the petitioner and protect him from assault and injury for a hearing before the Superior Court. Resisting an officer engaged in executing his duty in this respect is subject to a fine of not more than ten thousand dollars and imprisonment of not more than ten years. Rescuing or attempting to rescue any person from the custody of an officer is also subject to a fine of not more than one thousand dollars or imprisonment of not more than six months, or both. And if the accused is killed in the process,

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[105] Act of May 25, 1897, P. L. 85.

* Note: See Slander for offense given by the spoken word.

[106] Act of April 23, 1909, P. L. 171.

[107] Act of March 31, 1860, P. L. 382, Secs. 52 and 53.

[108] Act of June 13, 1883, P. L. 90.

[109] Act of May 19, 1923, P. L. 283, No. 183.

all persons engaged in such taking or abduction or killing thereto, shall be guilty of murder. Death caused by a mob or riotous assemblage of three or more persons is a crime included under murder.

*Malicious Mischief**

It is unlawful to throw explosives maliciously or place them near any building or vessel; penalty is a fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding three years.[110] Malicious mischief to canals is prohibited; fine not exceeding $100, imprisonment by separate or solitary confinement or simple imprisonment at labor not exceeding three years.[111] It is an offense to open locks wantonly or obstruct navigation in a canal; fine not exceeding $100 and imprisonment not exceeding three calendar months.[112] It is unlawful to destroy banks of canals; fine not exceeding $100, imprisonment not exceeding one year.[113] It is unlawful to injure railroad property and other structures and buildings; fine not exceeding $500, imprisonment not exceeding twelve months or both.[114]

Mayhem

It is unlawful to cut off or disable any limb or member of another person, or brand another, with the intention in so doing to maim or disfigure such person either by lying in wait, or by fighting. Such an act is a misdemeanor; fine not exceeding $1,000, three-quarters of which shall be for the use of the party grieved, and imprisonment by separate or solitary confinement at labor not exceeding five years.[115]

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* Note: For other offenses under this general head see Act of May 9, 1913, P. L. 186; Act of June 1, 1911, P. L. 553; Act of March 22, 1887, P. L. 8; Act of April 8, 1867, P. L. 907, Sec. 3; Act of June 18, 1895, P. L. 196; Act of June 8, 1881, P. L. 82; Act of June 29, 1917, P. L. 657; Act of June 9, 1911, P. L. 861; Act of June 7, 1911, P. L. 679; Act of June 25, 1913, P. L. 560; and Act of March 10, 1903, P. L. 20.

[110] Act of March 31, 1860, P. L. 382, Sec. 141, as amended by Act of April 20, 1927, P. L. 326.

[111] Act of March 31, 1860, P. L. 382, Sec. 144.

[112] *Ibid.*, Sec. 145.

[113] *Ibid.*, Sec. 146.

[114] *Ibid.*, Sec. 147.

[115] Act of April 22, 1794, Sec. 6, 3 Sm. L. 186, and Act of April 23, 1829, Sec. 4, 10 Sm. L. 440 (P. L. 341). Act of March 31, 1860, P. L. 382, Sec. 80.

Murder and Manslaughter

All murder which shall be perpetrated by means of poison or by lying in wait or by any other kind of wilful, deliberate or premeditated killing, or which shall be committed in the perpetration of or attempting to perpetrate any arson, rape, robbery, burglary or kidnapping, shall be deemed murder in the first degree; and all other kinds of murder shall be deemed murder in the second degree; and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether it be murder of the first or second degree; but if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime and to give sentence accordingly.[116] Every person, his aiders, abettors and counselors convicted of murder in the first degree shall be sentenced to suffer death by electrocution. The same act covers the entire procedure for the death sentence.[117] The punishment for murder in the first degree is death which shall be in the manner provided by law or imprisonment for life, at the discretion of the jury trying the case, which shall fix the penalty by its verdict.[118] In cases of pleas of guilty, the court, where it determines the crime to be murder of the first degree, shall, at its discretion, impose a penalty of death or imprisonment for life; and the clerk of the court shall transmit to the Governor within ten days after the sentence of death a full and complete record of the trial and conviction.

The penalty for murder in the second degree, [119] in the first offense shall be imprisonment by separate or solitary confinement not exceeding twenty years, and for the second offense, life.

The penalty for voluntary manslaughter shall be a fine not exceeding one thousand dollars, and imprisonment by separate or solitary confinement, or simple imprisonment, not exceeding twelve years.[120] The penalty for involuntray manslaughter shall

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[116] Act of May 22, 1923, P. L. 306.
[117] Act of June 19, 1913, P. L. 528.
[118] Act of March 31, 1860, P. L. 382. Sec. 75, as amended by the Act of May 14, 1925, P. L. 759.
[119] Act of April 14, 1893, P. L. 17.
[120] Act of March 31, 1860, P. L. 382, Sec. 78.

be a fine not exceeding one thousand dollars and imprisonment not exceeding two years.[121]

Nuisances

Maintaining a public nuisance is unlawful, subject to fine and imprisonment according to the discretion of the court.[122]

Keeping gambling devices shall be considered a public nuisance.[123]

The distribution of samples of candy and medicine is unlawful; fine not exceeding $100, imprisonment not exceeding one year, or both, or either.[124]

There are many local ordinances and regulations under this heading which should be investigated with due care before deciding whether or not a particular act is or is not a nuisance.

Obscenity

It is unlawful to publish or sell any filthy or obscene libel or exhibit or sell any indecent print, painting or statue or to keep a house, room or gallery for the purpose of exhibiting such indecent objects; fine not exceeding $500, imprisonment not exceeding one year.[125] It is unlwaful to exhibit indecent pictures or characters representing the human form in a nude or semi-nude condition; fine not less than $25.00 or more than $300.00. All scientific books and works of art are excepted. It is also unlawful to sell, lend, give, show or advertise indecent books and pictures to minors; fine not exceeding $500.00, imprisonment not exceeding two years. It is also unlawful to draw or post indecent pictures or writings in public places; fine not exceeding $500.00, imprisonment not exceeding one year.[126] It is unlawful to publish obscene literature or to bring it into the State; fine not exceeding $500.00, imprisonment not exceeding one year.[127] It is unlawful to sell, lend or give away or show obscene books;

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[121] *Ibid*, Sec. 79.
[122] Act of March 31, 1860, P. L. 382, Sec. 73.
[123] Act of April 2, 1870, P. L. 46.
[124] Act of May 8, 1907, P. L. 181.
[125] Act of March 31, 1860, P. L. 382, Sec. 40.
[126] Act of May 6, 1887, P. L. 84, Sec. 4.
[127] *Ibid.*, Sec.1

imprisonment not more than one year, fine not more than $1,000, or both for each offense.[128] One may not give or participate in or permit any obscene or sacrilegious exhibition whether dramatic, theatrical, operatic or vaudeville, or by the exhibition of any fixed or moving pictures; fine not exceeding $1,000 and imprisonment not exceeding one year, or either or both.[129]

Pandering

It is unlawful to procure a female inmate for a house of prostitution or to induce a female to become a prostitute or to come into or leave the State for the purpose of prostitution; imprisonment by separate or solitary confinement at labor not more than ten years.[130] There is the same penalty for placing a wife in a house of prostitution, or for detaining any female person in a house of prostitution because of any debt or debts, for receiving proceeds of prostitution, for transporting a female into, through or across the State for the purpose of prostitution with a similar penalty. It is unlawful to entice any woman or girl into the State for any immoral purpose; imprisonment not less than one, or more than five years; fine not exceeding $5,000.[131]

Perjury

Perjury and subornation thereof are unlawful; fine not exceeding $500.00, imprisonment by separate or solitary confinement at labor not exceeding seven years and perpetual disqualification from being a witness in any matter in controversy.[132]

Perjury consists of making false statements under oath. Subornation is the procuring of persons to commit perjury.

Professional Thieves

The punishment for professional thieves, burglars, or pickpockets shall be imprisonment not exceeding ninety days or an accused may be required to enter security for his or her good

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[128] Act of May 12, 1897, P. L. 63.
[129] Act of April 13, 1911, P. L. 64.
[130] Act of June 7, 1911, P. L. 698.
[131] Act of May 1, 1909, P. L. 306.
[132] Act of March 31, 1860, P. L. 382, Sec. 14.

behavior not exceeding one year.[133] The arrest of thieves found in public places is provided for[134] Conductors of trains may make the arrest in certain places.

Prostitution *

It is unlawful to use any place or conveyance for prostitution or assignation or to permit its use for such purpose; to commit or aid or abet prostitution or assignation; to use any conveyance for the purpose of prostitution or assignation; fine not exceeding $100.00, imprisonment not exceeding one year. Prostitutes at the discretion of the court may be committed to a private institution in the State adapted to the proper control of women of this class and approved by the State Department of Health and State Department of Public Welfare, but the religious faith of the individual is guarded.[135] Persons may be released on parole under the supervision of a designated officer and there may be a recommitment for the violation of the parole.[136]

Rape †

If a person shall have unlawful carnal knowledge of a woman forcibly and against her will or who being of the age of sixteen years and upwards shall unlawfully and carnally know and abuse any woman or child under the age of sixteen years with or without her consent, it is unlawful; fine not exceeding one thousand dollars; imprisonment by separate or solitary confinement at labor or simple imprisonment not exceeding fifteen years. In case a prosecutrix is under the age of sixteen, if the jury finds that she was not of good repute and that she consented, the defendant shall not be guilty of felonious rape but be convicted of fornication only.[137]

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[133] Act of June 7, 1901, P. L. 492.

[134] Act of March 12, 1866, P. L. 182.

* Note: For a discussion of quarantine, venereal disease, etc., see Chapter VIII on "Public Health."

[135] Act of June 30, 1923, P. L. 982.

[136] *Ibid.*, Sec. 5.

† Note: The law of 1887 amended the Act of 1860, Sec. 91, by raising the age of consent of the female from ten years, to sixteen years, and the age of the offender from fourteen years to sixteen.

See also Adultery, Fornication and Bastardy.

[137] Act of May 19, 1887, P. L. 128 See also Sec. 92 of the Act of 1860, P. L. 382.

Receiving Stolen Goods

Any person that shall buy, have or receive stolen goods, is guilty of a felony;[138] the penalty is the same as that for larceny.[139] Receiving goods stolen in another State is a felony; fine not exceeding $500 and imprisonment by separate or solitary confinement at labor not exceeding three years.[140]

See also Larceny

Robbery

Robbery is an offense which includes the idea of larceny, that is, taking the goods or personal property of another, and the idea of taking them from the person of the victim. It is often accompanied by force.

Robbery, or larceny, from the person is a felony; fine not exceeding $1,000, imprisonment by separate or solitary confinement not exceeding five years.[141]

Robbery with aggravating circumstances, such as being armed with an offensive instrument and using it to beat, strike, or ill-use the victim, is a felony; fine not exceeding $5,000, imprisonment by separate or solitary confinement at labor not more than twenty years.[142]

Robbery by threats to accuse the individual of an infamous crime is a felony, fine not exceeding $1,000, imprisonment by separate or solitary confinement at labor not exceeding ten years.[143]

Robbery of bank vaults by fraud, force or administering a stupefying drug is a felony; fine not exceeding $10,000, imprisonment at hard labor not exceeding twenty years.[144]

Removing or injuring railway track or placing explosives upon it, or conspiring to stop the train for the purpose of robbing in the State and thereafter robbing or attempting to rob any person is unlawful; punishment, confinement in the penitentiary not less than fifteen years.[145]

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[138] Act of April 23, 1909, P. L. 159.
[139] *Ibid.*,
[140] Act of June 20, 1919, P. L. 542.
[141] Act of March 31, 1860, P. L. 382, Sec. 102.
[142] Act of April 18, 1919, P. L. 61.
[143] Act of March 31, 1860, P. L. 382, Sec. 101.
[144] Act of May 8, 1876, P. L. 139.
[145] Act of June 25, 1895, P. L. 290.

Second Convictions

If any person is convicted a second time for any offense other than murder of the second degree, the second penalty shall be imprisonment at labor not exceeding double the penalty for the first period.[146]

Seduction

Seduction of any female of good repute under twenty-one years of age under promise of marriage is a misdemeanor; fine not exceeding $5,000, imprisonment not exceeding three years; but the promise of marriage must be established by the testimony of the female corroborated by other evidence.[147]

See Rape, Adultery, Fornication and Bastardy.

Shooting at, Wounding or Killing A Human Being in Mistake for Game or Wild Creature

This is made unlawful by the Act of May 20, 1921, P. L. 968; the various phases of the offense have appropriate penalties.

Slander

See Libel.

This is frequently involved with assault and battery and similar charges, such as disorderly conduct. Usually it is a civil rather than a criminal proceeding.

Slander involves the spoken work as libel is applied to the written word.

Sodomy

Sodomy is unlawful; fine not exceeding $1,000, imprisonment by separate or solitary confinement at labor not exceeding ten years. Unlawfully and maliciously assaulting another with intent to commit sodomy is unlawful; fine not exceeding $1,000 and imprisonment by separate or solitary confinement at labor not exceeding five years.[148]

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[146] Act of March 31, 1860, P. L. 382, Sec. 182.
[147] Act of March 31, 1860, P. L. 382, Sec. 41.
[148] Act of July 16, 1917, P. L. 1000.

Threatening Letters

It is unlawful knowingly to send or deliver to any other person any letter or writing accusing or threatening to accuse any person of any crime or misdemeanor punishable by law with imprisonment at labor; with intent to extort or gain money, property and securities or other valuable thing or to threaten to kill or murder any other person or to destroy property; penalty imprisonment by separate or solitary confinement at labor or by simple imprisonment not exceeding three years, fine not exceeding $1,000.[149] The Act of 1876 amends this by eliminating the provision that limits the Act of 1860 to crimes punishable with imprisonment at labor.[150]

White Slave Traffic

In addition to the State Laws under the head of Pandering there is also a United States law known as the "Mann White Slave Act."[151] Substantially it provides that transportation of a woman or girl for immoral purposes or procuring a contract for transporting her from one state to another is a felony under the United States law and may be punished in the Federal Courts by a fine not exceeding $5,000 or by imprisonment of not more than five years, or both. This statute also includes a section for the prevention or transportation in foreign commerce of alien women or girls under international agreements and designates the Commissioner General of Immigration to receive information and requires that all persons who keep women or girls for immoral purposes, shall file information to that effect with the Commissioner General.

An attorney should be consulted as to whether it is better in a particular case to use the State law or the Federal law.

Witnesses

It is unlawful to dissuade, hinder or prevent a witness from attending and testifying before the Legislature of the State or

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[149] Act of March 31, 1860, P. L. 382, Sec. 23.
[150] Act of May 8, 1876, P. L. 141.
[151] Enacted June 25, 1910, Chapter 392, and found in 36 United States Statutes 825.

before a court or judge; fine not exceeding $500.00, imprisonment not exceeding one year.[152]

II. CRIMINAL PROCEDURE

Criminal procedure is the method by which we make use of the criminal laws. When a crime has been committed at least the following steps may be taken:—

A. Apprehension of the accused.
B. The preliminary hearing.
C. Proceedings between the hearing and the trial.
    a. Proceedings before the Grand Jury
    b. The arraignment
D. The trial.
E. Proceedings subsequent to the trial.

We now take these up briefly.

A. Apprehension of the Accused

There are four agencies to investigate the commission of the offense:

1. The private prosecutor,—that is, the person aggrieved by the crime.
2. The coroner when a death occurs surrounded by suspicious circumstances.[153]
3. The Grand Jury under certain circumstances usually exercised upon direction of the court.
4. In practice in addition to the private prosecutor an investigation is made by the district attorney,[154] and the police and private detectives.

a. Search Warrants

Search warrants authorizing an official to search and seize property or persons, are authorized.[155] There are provisions for

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[152] Act of March 31, 1860, P. L. 382, Sec. 11.
[153] Act of April 16, 1907, P. L. 92.
[154] Act of June 3, 1919, P. L. 369; as amended by Act of April 29, 1925, P. L. 352
[155] Act of March 31, 1860, P. L. 427, Sec. 5; but see Act May 19, 1897, P. L. 67, Sec. 22.

seizing indecent literature,[156] for searching buildings where it is suspected that an act of cruelty to animals is being committed.[157] for the search and seizure of articles to procure an abortion,[158] and for the search for liquor.[159]

Unreasonable searches and seizures without a warrant are prohibited by the State and Federal Constitutions. Under the same head comes the practice of interrogating a person suspected of being a criminal. This is usually known as the "Third Degree."[160]

To initiate the prosecution of a person accused of crime there are ten methods in use in Pennsylvania:—

1. The individual aggrieved may make information or complaint under oath to a magistrate or justice of the peace to issue process for the arrest of the accused. This is the customary method.
2. By arrest of the accused without process. This may be done under the Act of March 31, 1860, P. L. 382, Sec. 60 in the case of seizure of gaming devices;
   The Act of March 13, 1862, P. L. 115, for the arrest of professional thieves, burglars or pickpockets; under the Act of May 8, 1876, P. L. 154, in arresting vagrants.
   By the Act of April 30, 1879, P. L. 33, Sec. 4, for punishing tramps.
   The Act of May 2, 1905, P. L. 361, Sec. 5, authorizes the State Police to arrest without warrant for all violations of law which they may witness.
   The Act of June 30, 1919, P. L. 678, Sec. 30, authorizes constables and police to arrest on view any person violating the act having to do with the operation of motor vehicles.
   The Act of April 20, 1921, P. L. 152, authorizes the Secretary of Health to appoint inspectors to

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[156] Act of May 12, 1897, P. L. 63, Sec. 3.
[157] Act of June 3, 1911, P. L. 654.
[158] Act of May 12, 1897, P. L. 63.
[159] Act of March 27, 1923, P. L. 34, Sec. 8.
[160] See in this connection the case of Commonwealth vs. Brines, 29 District 1091 (1920).

arrest persons violating the act regulating the possession, use and sale of drugs.

The Act of March 27, 1923, P. L. 34, Sec. 9, authorizes the arrest by an officer of any person discovered in the act of illegally transporting liquor.

Drunkenness alone appears not to justify an arrest without a warrant but drunkenness coupled with breach of peace does justify such action. In practice most arrests for disorderly conduct, so-called, are made without warrants.

It does not seem necessary to go into detail as to the eight other methods of initiating prosecution. The foregoing are the customary ones.

b. Extradition

The process of securing the fugitive from another state, usually called "extradition", is a more difficult process.

If a man commits a crime in Pennsylvania which under the law is extraditable, and that is to be ascertained by the text of the law usually including felonies and misdemeanors, the persons who desire to secure his presence, prepare a statement of the case supported by evidence and submit it to the District Attorney of the County in which the procedure is to be inaugurated and in which the crime was committed. Extradition takes place where the warrant has already been issued by a magistrate or justice of the peace and the extradition papers consist of the information or statement of the case, the warrant and evidence, prepared in duplicate. The District Attorney, if the case is a proper one, then asks for the arrest of the fugitive in the state to which he has gone and also requests the Governor to issue a requisition for the accused upon the Governor of the State in which the accused has sought asylum. The Department of State has the power to pass upon and approve of proceedings for extradition of fugitives from justice or lay the same before the Governor.[161] The Governor then issues the requisition to the Governor of the asylum state, who, as a matter of courtesy, but not as a matter of

[161] Act of April 13, 1927, P. L. 207, Sec. 42 amending Act of June 7, 1923, P. L. 498.

right, is usually willing to direct the issuance in his own state of process to arrest the offender and hold him. The District Attorney then sends an agent to bring the fugitive back. The reasonable expense of bringing the fugitive back for trial shall be paid out of the treasury of the county where the offense is charged to have been committed.[162]

The most recent statement of the law with reference to extradition is the Act of 1927.[163] This is enacted to make uniform the law on the subject. Criminals are to be arrested and delivered up to the executive authority of any other state when a person is charged in that state with a crime and has fled from justice and is found in Pennsylvania. The statute provides the form of the demand and the accompanying papers. The Governor may investigate the case through the Attorney General or any prosecuting officer in the state and order the accused to be surrendered. The act further covers the case of persons who have committed a crime in Pennsylvania and who have fled from justice and are found in another state and the process for applying for a requisition to be issued by the Governor of Pennsylvania to the Governor of the state of asylum.

B. Preliminary Hearing

It is customary to bring the accused before a magistrate or justice of the peace to have a preliminary hearing so that the magistrate may determine on the basis of the evidence produced by the prosecution with such explanation as may have been made by the accused or his witnesses what disposition the magistrate shall make of the case. The prosecution must make out a prima facie case. The accused has certain rights at the trial, in particular it is the duty of the magistrate, if the accused shall so desire, to hear the accused and all witnesses on his behalf, except in prosecutions for certain major offenses, such as murder, manslaughter, rape, robbery, or burlgary.[164] It is also the duty of the magistrate in all prosecutions for assault and battery to enter into a full hearing and investigation of the facts charged.[165]

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[162] Act of March 31, 1860, P. L. 427, Sec. 1.
[163] Act of April 21, 1927, P. L. 327.
[164] Act of May 14, 1915, P. L. 499.
[165] Act of May 27, 1919, P. L. 306.

A magistrate at the conclusion of the hearing may discharge the accused if he thinks there is no prima facie case against him, or in certain offenses he may punish the accused by fine or imprisonment. In many cases the magistrate, as a method of social control, will place both parties, or one of them, under bond to keep the peace (often spoken of as surety of the peace). It is in some respects similar to probation with the individual under bond to the court instead of under the personal supervision of the probation officer. In the more serious cases, his action is usually to hold the accused to await the action of the Grand Jury. When he chooses this third step he ordinarily, except in the most serious cases, permits the accused to give security known as "bail" that the accused will appear later when called upon by the court.[166]

The result of the preliminary hearing is, then, to sift out a great number of cases where the accused need not be held; to dispose of a number of petty cases where there is no need to take the time of a court and jury; to make a preliminary investigation into the more serious cases and dispose of them pending the time when a regular trial may be had.

C. Proceedings Between the Hearing and the Trial

The persons in this group are either in jail or out on bail. There is a natural desire to give preference to the cases of those who are in jail. It should be remembered that neither those in jail or out on bail have been tried and convicted. Consequently there is a presumption of innocence in their favor. The following steps take place.

The case is transferred to the district attorney's office. The district attorney prepares a formal accusation called a bill of indictment and submits it with evidence to the Grand Jury, which decides again on the basis of evidence only for the prosecution whether there is a prima facie case against the accused.

It is the function of the Grand Jury to consider the bills of indictment brought before it by the district attorney and to decide whether or not there is reason to bring the case up for trial. If they decide against a trial the accused goes free. If

[166] Act of May 12, 1921, P. L. 548, and the Act of May 23, 1923, P. L. 339. On the question of cash bail see the Act of March 19, 1925, P. L. 49.

they decide that there is reason for a trial the case goes to arraignment. In the meantime the prosecution and defense prepare for trial.

The arraignment is the portion of the proceedings where the accused is brought before the court, the bill of indictment is read to him and he is required to plead guilty or not guilty. If he remains silent it is regarded as a plea of not guilty. There are occasions when other pleas may be made with the approval of the court such as the statement by the accused that he does not wish to plead either guilty or not guilty, but is willing to throw himself on the mercy of the court.

The court in disposing of the case, whether upon a plea of guilty or after the jury has found the defendant guilty, sometimes makes use of consecutive and concurrent sentences.

"Concerning the consecutive and concurrent sentences this is the situation as I have observed it. A judge may sentence an individual who has been convicted on two charges or found guilty on two counts to either consecutive or concurrent terms in the prison or county jail. If the sentence is for concurrent terms, it would be just as if he were convicted for one offense, the offense with the longer sentence determining the period of imprisonment, the offense with the shorter sentence being practically valueless except in matters of parole or pardon. Sometimes the concurrent sentences are of the same length. When the sentences are consecutive, however, the individual may serve the full term for both sentences, or both charges or counts.

"It is also the custom of judges to sentence on one charge and suspend sentence on another. This is used as an expedient to prevent pardon or parole by the State Pardon and Parole Board, when the judge feels that the individual should have a severe punishment. This method of suspending sentence enables the judge to impose sentence on the suspended sentence at any time in order that a pardon or parole may be granted. This seems, however, to be used more as a threat. I do not know of any case where an offender has been sentenced on suspended sentence after parole. Some of the judges have also the custom of deferring sentence,—that is, they never impose sentence. This has the same effect as suspended sentence."[167]

[167] Letter dated 6–11–'28 from Leon Stern, of the Pennsylvania Committee on Penal Affairs, to John S. Bradway, Esq.

D. The Trial

It is not necessary to discuss at length the details of the trial. The court is composed of a judge and jury. The district attorney represents the prosecution. The defendant often is not represented by counsel. Witnesses are examined and the jury is required to determine whether under the facts as presented the accused is, or is not guilty.

E. Proceedings Subsequent to the Trial

1. Appeal

If the jury finds the accused not guilty he goes free. If the verdict is guilty, or if he has pleaded guilty the judge must decide what is to be done with the prisoner. Of course, there are cases where appeals are taken to the Supreme, or the Superior Court, and new trials are granted. But evenutally there will be a situation where certain accused persons have been found guilty and must be sentenced.

2. Sentence

In imposing sentence the judge has several alternative steps he may take. In general he may suspend sentence and let the defendant go; he may place the defendant on probation and let him go, or he may impose a punishment.

3. Probation, Parole and Pardon

The general subject of Probation is covered by the Act of 1911.[168]

We now consider those matters in which the accused after being found guilty is given other treatment than a mere term in prison. There is so much literature dealing with these three subjects that it seems unnecessary in this section to do more than refer to it and note the laws in Pennyslvania. For information on Probation reference should be had to the publications of the National Probation Association, 370 Seventh Avenue, New York City.

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[168] Act of June 19, 1911, P. L. 1055, as amended by the Act of May 7, 1925, P. L. 554, No. 297.

On Parole one should refer to the valuable report in two parts of the Pennsylvania State Parole Commission in 1927. This report distinguishes Probation, Parole and Pardon. Quoting from the report: "Probation is used by the courts as a substitute for imprisonment. Parole, on the other hand, always follows a period of confinement. It is a supplement to incarceration, not a substitute for it . . . Pardon involves forgiveness. Parole does not. Pardon is a remission of punishment. Parole is an extension of punishment . . . Pardon is an executive act of grace; parole is an administrative expedient."

Parole is governed by several laws.[169] This power is given the Governor and the courts of record. The detailed procedure is indicated in the Act of 1923.[170]

Prior to that time there were certain laws deserving to be noted here. In 1901 came the "Good Time" Law providing for the commutation of sentences for good behavior of convicts in prisons, penitentiaries, work-houses and county jails of this State.[171] In 1909 there was passed an act authorizing the release on probation of certain convicts, instead of imposing sentences; and providing for the appointment of probation officers.[172] This was amended in 1911[173] by two acts which extended the powers of judges in relation to releasing prisoners in jails and workhouses on parole. In the year 1913 came the "Sponsorhsip Laws" regulating the discharge of prisoners on parole from penal institutions.[174]

The Governor's pardoning power proceeds from the Constitution of Pennsylvania.[175] The right to commute a sentence is given to the Governor,[176] but a person sentenced for an indefinite

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[169] Act of June 19, 1911, P. L. 1055, as amended by Act of May 7, 1925, P. L. 554, No. 297; Act of June 3, 1915, P. L. 788; Act of May 11, 1923, P. L. 204; Act of June 29, 1923, P. L. 975, No. 397.

[170] See Act of May 5, 1921 P. L. 379 amended by Act of May 11, 1923 P. L., 204. See also act June 29 1923 P. L., 975.

[171] Act of May 11, 1901, P. L. 166.

[172] Act of May 10, 1909, P. L. 495.

[173] Act of June 19, 1911, P. L. 1059.

[174] Act of May 28, 1913, P. L. 363.

[175] Constitution of Pennsylvania, Art. IV, Sec. 9.

[176] Act of May 11, 1901, P. L. 166, and the Act of June 29, 1923, P. L. 975

term is not entitled to the benefits of the Act.[177] The Governor has the right to parole prisoners confined in the penitentiary on an indeterminate sentence who have served the minimum period.[178] The prisoner is under the supervision of a parole officer. Action in case of violation of parole is provided for and also for the right to pardon.[179] The court may pronounce sentence for an indefinite term stating the minimum and maximum limits and the maximum limit shall never exceed the maximum time prescribed as a penalty for the offense and the minimum limit shall never exceed one-half of the maximum sentence.[180]

The Act of June 7, 1923, P. L. 498, Sec. 404, provides that the Board of Pardons shall consist of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs. The Governor may grant pardons upon the recommendation in writing of this Pardon Board after full hearing upon due public notice and in open session. The recommendation of this Board with the reasons therefore are to be recorded in the office of the Secretary of the Commonwealth. Application to the Board is made in accordance with its rules by persons interested in the accused and there is supplied to the Board a complete transcript of the proceedings including the reasons why the pardon is requested.

4. Prisons and Prison Labor

There is special provision for confinement of persons sentenced to death.[181] If the sentence is commuted the accused is sent to a penitentiary. Where the sentence is imprisonment at labor by separate or solitary confinement for[182] any period not under one year, the accused may be sent to the pentitentiary. Persons sentenced to imprisonment less than one year, except juvenile delinquents and except such persons as may be sent to

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[177] Act of June 29, 1923, P. L. 975.
[178] Act of June 19, 1911, P. L. 1055.
[179] Act of June 3, 1915, P. L. 788.
[180] Act of June 29, 1923, P. L. 975, No. 397.
[181] Act of May 29, 1874, P. L. 116.
[182] Act of March 31, 1860, P. L. 427, as amended by Act of Feb. 28, 1905, P. L. 25.

the house of correction, must be sent to the county prison.[183] In Philadelphia County the judge in his discretion, may send the accused to the county prison rather than to the penitentiary.[184] Also in Philadelphia County, vagrants, habitual drunkards, street walkers and disorderly persons may be sentenced to the house of correction not less than three months.[185] Boys and young men between fifteen and twenty-five in Pennsylvania sentended to a state prison may be sent to the Huntingdon Reformatory.[186] Any person convicted of a misdemeanor punishable by imprisonment in a state or county prison may be sentenced to a reformatory or house of correction provided the sentence imposed does not exceed a period of one year.[187] Juvenile offenders may be committed to the House of Refuge.[188] Adult prisoners may be transferred from one prison to another.[189]

The general supervision over prison labor is given to the Department of Welfare and also the right to require and supervise the transfer of inmates of one penitentiary to another and to request reports from all persons concerned in the control, apprehension, trial and punishment of criminals and delinquents.[190]

The subject of jails and prisons and penitentiaries has required the statement of a very great amount of law. Reference should be made in this connection to the Act of 1921.[191] This law provides that when a prisoner shall be sentenced to serve a term in any of the jails or penal institutions of the State and shall be admitted to jail, he shall within forty-eight hours of his admission, he examined as to his physical and mental condition. The record of the result of such examination shall be kept as a part of the records of the jail. Prisoners whose physical contion is not considered good or who are suffering from any disease

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[183] Act of March 31, 1860, P. L. 427, as amended by Act of June 26, 1895 P. L. 374.
[184] Act of February 8, 1842, P. L. 12.
[185] Act of June 2, 1871, P. L. 1301, Sec. 2.
[186] Act of June 8, 1881, P. L. 63, Sec. 8.
[187] Act of May 10, 1921, P. L. 433, No. 209.
[188] Act of March 23, 1826, P. L. 133, Sec. 6 and Act April 22, 1850, P. L. 538, Sec. 15.
[189] Act of July 11, 1923, P. L. 1044.
[190] Act of June 7, 1923, P. L. 498, Secs. 2001 et seq.
[191] Act of May 10, 1921, P. L. 433, No. 208.

are to be segregated. Prisoners found mentally weak are also to be segregated as are prisoners found to be habitual criminals or evilly inclined. A further Act of 1921[192] creates a Board of Inspectors of jails or county prisons composed of the judges of the Court of Quarter Sessions, the district attorney, sheriff, the controller and the commissioners of the various counties. The power and duties of the warden of the jail or county prison are prescribed.[193] In particular, he shall take charge of all prisoners lawfully committed and shall be responsible for the safe-keeping, care, maintenance, discipline, employment and discharge of all such prisoners. He is required to keep a journal setting down the names, sexes, length and character of the sentence, date of reception, discharge, death, pardon or other termination of the sentence of any prisoner

A further law regulates the physical exercise of prisoners.[194] Whether the prisoner be tried or untried, he shall have at least two hours' daily physical exercise in the open, weather permitting, and when the weather is inclement, two hours' daily physical exercise indoors, not in his cell. The Act does not apply to prisoners physically unfit.

No prisoner shall be deprived of the right of the use of tobacco for a longer period than two weeks.[195]

The Pennsylvania State Police are authorized to[196] continue to procure and file for record photographs, pictures, fingerprints and such other information as may be pertinent, of all persons who have been or who may hereafter be, convicted of crime in the state and also of all well known and habitual criminals wherever they may be procured. Provision is made for the co-operation of police officers, district attorneys and others in gathering this information.

The laws relating to escaped convicts or prisoners cover the various ways in which the expense of the transportation, maintenance, and trial shall be paid for.[197]

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[192] Act of May 16, 1921, P. L. 579.
[193] Act of May 10, 1921, P. L. 470.
[194] Act of June 14, 1923, P. L. 775, No. 306.
[195] Act of May 23, 1923, P. L. 316, No. 203.
[196] Act of April 27, 1927, P. L. 414, Sec. 3.
[197] Act of July 22, 1913, P. L. 912, as amended by the Act of April 4, 1925, P. L. 133.

The erection of jails, prisons or work-houses in counties of the fourth class is authorized.[198] Erecting work-houses and securing land for same in the several counties is also authorized.[199]

F. State Penal and Correctional Institutions

The State Welfare Department is vested with powers and duties of providing employment for, and compensation of, prisoners in manufacturing industries, or in preparation and manufacture of building material for any state institution, or in production of crushed stone, brick, tile, etc., for state roads. Such labor not to exceed eight hours a day.[200]

Compensation shall be not less than ten cents nor more than fifty cents for each day of labor.[201]

Products of industrial labor may be sold to the state, or to any county, city, borough, or township, or to any state institution, or state-aided charitable or educational institution.[202]

Surplus products of printing industry may be sold to U. S. Government and its agencies, or to the Government or organized subdivision of any State, or to any institution maintained or aided by any state.[203]

Inmates of state penal and correctional institutions may also be employed (1) by the State Highway Department on State or State-aided highways;[204] (2) in raising seedlings for sale to the Department of Forests and Waters.[205]

To inmates of state penal and correctional institutions employed at maintenance of the institution, wages not exceeding twenty cents a day shall be paid, after all wages due prisoners at work on prison industries have been paid.

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[198] Act of April 6, 1921, P. L. 100, as amended by the Act of April 27, 1927 P. L. 423.
[199] Act of June 26, 1895, P. L. 377, Sec. 3, as amended by the Act of April 27, 1927, P. L. 424.
[200] Act of May 25, 1921, P. L. 1144, as amended by Act of April 13, 1927, P. L. 207, Sec. 62.
[201] Act of May 25, 1921, P. L. 1144.
[202] *Ibid.*
[203] Act of May 10, 1927, P. L. 862.
[204] Act of July 11, 1917, P. L. 814.
[205] Act of April 27, 1925, P. L. 320, Sec. 3.

G. County Prisons and Jails

Inmates of a county prison may be employed only up to a certain percentage of the prison population, in manufacturing articles which are manufactured elsewhere in the state; but this restriction does not apply to goods produced for the institution, or for any county or county-aided institution, or for the county itself.[206]

They may also—

(1) be detailed for work upon public highways at a wage of twenty-five cents a day. The detail shall be voluntary on the part of the convict and in no way compulsory.[207]

(2) in manufacturing material for road building and repairing. The officials in charge of the prison shall determine the amount and kind of machinery, and fix wages of prisoners.[208]

(3) be employed at agricultural labor on county poor farms.[209]

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[206] Act of June 18, 1897, as amended by the Act of June 1, 1915, P. L. 654.
[207] Act of June 4, 1915, P. L. 812.
[208] Act of May 19, 1923, P. L. 271.
[209] Act of May 14, 1925, P. L. 762, Sec. 1109.

Chapter IV
LAWS RELATING TO DECEDENTS' ESTATES

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I. WILLS

The right to make a will in Pennsylvania is granted by the Act of June 7, 1917, P. L. 403. Every person of sound mind and of the age of twenty-one years and upwards, whether married or single, may make a will. Every will shall be in writing and unless the person making the same shall be prevented by the extremity of his last sickness shall be signed by him at the end thereof, or by some person in his presence and by his express direction, and in all cases shall be proved by the oaths or affirmations of two or more competent witnesses, otherwise such will shall be of no effect. Testamentary directions appearing after the signature of the will do not invalidate what precedes the signature. If the testator is unable to sign his name for any other reason than the extremity of his last sickness, it may be executed by a mark or cross, or if he is unable to make such mark or cross, the will is valid, provided there are two or more competent witnesses.

Noncupative wills may be made during the last sickness of the testator and in the house of his habitation or dwelling, or where he has resided for the space of ten days or more next before making the will, except where such person shall be surprised by sickness being from his own house. Where the bequest is over a hundred dollars it must be proved that the testator at the time of pronouncing the bequest directed the persons present, or some of them, to witness that this was his will, and there must be two witnesses to prove it. Such a noncupative will may be proved within six months from the speaking of the alleged testamentary words and after six months if the testimony or substance thereof was committed to writing within six days after making the will. Soldiers and sailors at sea, or in active service,

may make wills as heretofore. No property shall be bequeathed to any organization, or to any person interested for religious or charitable uses, unless it be done by will attested by two credible and at the time disinterested witnesses at least thirty days before the decease of the testator, and all dispensation of property contrary hereto shall be void and go to the residuary legatee and devisee, heirs, or next of kin, according to law. A disinterested witness is one not interested in the particular religious or charitable use.

For appointing of guardians by will for minors, see Chapter I.

Every will shall be construed to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention appears in the will. The legacy or devise which lapses or becomes void falls into the residue.

When a will is made it stands unless revoked. To revoke a will in which real estate is bequeathed, it is necessary to make either a new will or a codicil in writing, or other writing in similar form, or by burning, cancelling, obliterating or destroying the same by the testator himself, or someone in his presence, and by his express direction. Where the will involves only personal property the same procedure must be followed except in the case of a noncupative will, in which case it must be committed to writing in the lifetime of the testator, read to, or by him, and allowed by him and proved to be so done by two or more witnesses.

If a person makes a will and afterwards marries and has a child or children not provided for in the will, if he is survived by such spouse or children, the will is revoked as to them if they are not provided for.[1] This refers to children either by birth or adoption. They take from the estate of the deceased such part as they would have taken had the deceased died without making a will.

A person who is adjudged guilty of murder of a testator may not take any part of an estate.

The surviving spouse of a testator may elect to take under the will or against the will if he is not satisfied with the provisions of the will. In such case the survivor takes the share that

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[1] Act of May 20, 1921, P. L. 937.

he would have taken had the other died without a will. The election to take under or against the will must be manifested within two years after the issuance of letters testamentary or for administration.

Other laws applying to wills are the Acts of 1925, May 13, P. L. 689 and April 2, P. L. 117. Acts of 1927, April 27, P. L. 425, P. L. 427 and May 11, P. L. 972, No. 464, Sec. 1.

II. INTESTACY

A person who dies without making a will is said to die intestate. The Act of June 7, 1917, P. L. 429, covers the arrangements which the law makes for distributing the property left by intestates.[2] The law makes provision for many possible contingencies: (a) where there is left a spouse and one child only, or a spouse and no children, but descendants of one deceased child, the spouse shall be entitled to one-half of the estate; (b) where there is left a spouse and more than one child, or the descendants of more than one deceased child, the surviving spouse shall be entitled to one-third of the estate; (c) where there is left a spouse and other kindred, but no issue, the spouse shall be entitled to property to the aggregate value of $5,000 in addition, in the case of a widow, to the widow's exemption as allowed by law; and if the estate exceeds $5,000 the spouse shall receive $5,000 absolutely to be chosen from the estate, and in addition, one-half of the remaining estate, but the provision as to $5,000 shall only apply to cases of actual intestacy of husband or wife, entire or partial, and not to cases where the surviving spouse shall elect to take action against the will of the deceased person. The law provides for an appraisement of this $5,000 and a method of selecting it and conveying it. The act then goes on to provide that this property is in lieu of the widow's dower rights at common law, and of the husband's rights of courtesy. The right of the husband to share in the estate of the wife is barred by his neglect or refusal to provide for his wife for one year or upwards previous to her death, or in case for that period he has lawfully or maliciously deserted her. The widow's right in the husband's estate is also barred by her lawful and malicious desertion of

[2] Act of June 7, 1917, P. L. 429.

him for one year or upwards previous to his death; (d) the property of the intestate not going to the surviving spouse, if there be any, shall descend to and be distributed among his or her issue according to the following rules and order of succession:

Children (a) If such intestate shall leave children, but no other descendant, being the issue of a deceased child, the estate shall descend to and be distributed among such children.

Grandchildren. (b) If such intestate shall leave granchildren but no child or other descendant, being the issue of a deceased grandchild, the estate shall descend to and be distributed among such grandchildren.

Descendants in Same Degree of Consanguinity. (c) If such intestate shall leave descendants in other degrees of consanguinity however remote from him, and all in the same degree of consanguinity to him, the estate shall descend to and be distributed among such descendants.

Descendants in Different Degrees of Consanguinity. (d) If such intestate shall leave descendants in different degrees of consanguinity to him, the more remote of them being the issue of a deceased child, grandchild, or other descendant, the estate shall descend to and be distributed among them as follows, namely,—

Shares of Children. (1) Each of the children of such intestate shall receive such share as such child would have received if all the children of the intestate who shall then be dead, leaving issue, had been living at the death of such intestate.

Shares of Grandchildren. (2) Each of the grandchildren, if there shall be no children, in like manner, shall receive such share as he or she would have received if all the other grandchildren who shall then be dead, leaving issue, had been living at the death of the intestate, and so in like manner, to the remotest degree.

Issue Taking by Representation. (3) In every such case the issue of such deceased child, grandchild or other descendant, shall take by representation of their parents, respectively, such shares only as would have descended to such parents, if they had been living at the death of the intestate.

Parents. In default of issue as aforesaid, the real and personal estate of such intestate, not hereinbefore given to the surviving

spouse, if any there be, shall go to and be vested in the father and mother of such intestate, or if either the father or mother be dead at the time of the death of the intestate, the parent surviving shall take such real and personal estate.[3]

Collateral Heirs. In default of issue, father and mother, the real and personal estate of such intestate, not hereinbefore given to the surviving spouse, if any there be, shall descend to and be distributed among the collateral heirs and kindred of such intestate, without distinction between those of the whole and those of the half-blood, according to the following rules and order, of succession, namely,—[4]

Brothers and Sisters. (a) If such intestate shall leave brothers and sisters, or either, and no nephew or niece, or child of a deceased nephew or niece, being the issue of a deceased brother or sister, the real and personal estate shall descend to and be distributed among such brothers and sisters.

Nephews and Nieces. (b) If such intestate shall leave neither brother nor sister, and no child of any deceased nephew or niece, being the issue of a deceased brother or sister, but nephews or nieces, being the children of such deceased brother or sister, the real and personal estate shall descend to and be distributed among such nephews and nieces.

Children of Deceased Brothers or Sisters Taking by Representation. (c) If such intestate shall leave neither brother nor sister, nor nephew or niece, being the child of such deceased brother or sister, but children of deceased nephews or nieces, the real and personal estate shall descend to and be distributed among such children of deceased nephews or nieces.

Descendants of Brothers and Sisters. (d) If such intestate shall leave brothers or sisters and nephews and nieces, being children of a deceased brother or sister, and children of deceased nephews or nieces, being issue of deceased brothers and sisters, or shall leave members of any two of these three classes, the real and personal estate shall descend to and be distributed among such brothers and sisters, nephews and nieces, and children of deceased nephews and nieces, as follows, namely,—

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[3] Act of June 7, 1917, P. L. 429, Sec. 8.
[4] *Ibid.*, Sec. 9.

Each brother and sister shall receive such share as he or she would have received if all the brothers and sisters who died before the intestate leaving child or children of deceased children surviving the intestate had been living at the death of the intestate.

Each nephew and niece, if the intestate shall leave any brother or sister, shall receive an equal portion of the share which his or her parent would have taken if then living, which portion shall be what he or she would have taken if all the children of his or her parent who died before the intestate, leaving children surviving the intestate, had been living at the death of the intestate; but if such intestate shall leave neither brother nor sister, the nephews and nieces shall take per capita.

Each child of a deceased nephew or niece, whether the intestate shall leave members of one or both of the other classes, shall receive an equal portion of the share which his or her parent would have received if living at the death of the intestate.

Next of Kin. In default of all persons hereinbefore described, the real and personal estate of the intestate shall descend to and be distributed among the grandparents or descendants of deceased grandparents of such intestate, and in default thereof to and among the next of kin to such intestate.[5]

Limits of Representation. The grandchildren of brothers and sisters and the children of uncles and aunts shall be entitled to take by representation the shares of real and personal estate which their parents would have taken if living; but, except as hereinafter provided, there shall be no representation admitted among collaterals after the granchildren of brothers and sisters and the children of uncles and aunts.[6]

Grandparents and Issue of Deceased Grandparents. If the next of kin of an intestate, entitled to take under the provisions of this act, shall be one or more than one grandparent of such intestate, and there shall be living, at the time of the decease of such intestate, children or other descendants of any deceased grandparent, then the children or other descendants of any such deceased grandparent shall represent the grandparent so deceased, and shall take the share of real or personal estate to which such deceased grandparent would be entitled if living.[7]

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[5] Act of June 7, 1917, P. L. 429, Sec. 10.
[6] *Ibid.*, Sec. 11.
[7] Act of June 7, 1917, P. L. 429, Sec. 12.

The issue of any such deceased grandparent shall take according to the following rules of succession, namely,[8]—

Grandchildren of Deceased Grandparents. (b) If there be grandchildren of such deceased grandparent and no other descendants, being children of a deceased grandchild, and no child, the share of such deceased grandparent shall descend to and be distributed among such grandchildren.

Descendants of Deceased Grandparent in Same Degree of Consanguinity. (c) If there be descendants of such deceased grandparent in any other degree however remote from him, and all in the same degree of consanguinity to him, the share of such deceased grandparent shall descend to and be distributed among such descendants.

Descendants of Deceased Grandparent in Different Degrees of Consanguinity. (d) If there be descendants of such deceased grandparent in different degrees of consanguinity to him, the more remote of them being the issue of a deceased child, grandchild or other descendant, the share of such deceased grandparent shall descend to and be distributed among them as follows, namely,—

Children of Deceased Grandparent. (1) Each of the children of such deceased grandparent shall receive such share as such child would have received if all the children of such deceased grandparent, who shall then be dead, leaving issue, had been living at the death of the intestate.

Grandchildren of Deceased Grandparent. (2) Each of the grandchildren, if there shall be no children of such deceased grandparent, in like manner shall receive such share as he or she would have received if all the other grandchildren, who shall then be dead, leaving issue, had been living at the death of the intestate, and so in like manner to the remotest degree.

Issue Taking by Representation. (3) In every such case the issue of such deceased child, grandchild or other descendant of such deceased grandparent shall take, by representation of their parents respectively, such share only as would have descended to such parents, if they had been living at the death of the intestate.

Foregoing Provisions Apply Only to Legitimates. Except as

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[8] Act of June 7, 1917, P. L. 429, Sec. 15.

otherwise provided the foregoing provisions of this act relative to descent and distribution of real and personal estate among the heirs and next of kin of intestates shall be construed to mean such persons only as may have been born in lawful wedlock.[9]

Illegitimates—Inheritance as between Mother, Grandparents and Child. (a) The mother of an illegitimate child, her heirs and next of kin, the maternal grandfather and grandmother of said illegitimate child, and said illegitimate child, its heirs and next of kin, shall have capacity to take or inherit from each other personal estate as next of kin, and real estate as heirs, under the foregoing provisions of this act, in the same manner and to the same extent as if said child or children had been born in lawful wedlock.[10]

Inheritance as between Children, Legitimate and Illegitimate. (b) Every illegitimate child shall be considered as a brother or sister to every other child of its mother, legitimate or illegitimate.

Legitimation as to Mother, but not as to Father. (c) The intent of this section is to legitimate an illegitimate child only so far as is provided by clauses (a) and (b) hereof. This section is not intended to change the existing law with regard to the father of such a child, and his heirs and next of kin.

Legitimation by Marriage of Parents. (d) In any and every case where the father and mother of an illegitimate child or children shall enter into the bonds of lawful wedlock, or shall heretofore have entered into the bonds of lawful wedlock, such child or children shall be legitimated for all purposes of inheritance by, from or through such child or children, under the provisions of this act, as if he or they had been born during the wedlock of his or her parents.

Surviving Spouse and no known Heirs or Kindred—Rights of Surviving Spouse. (a) In default of known heirs or kindred, competent as aforesaid, the real estate of such intestate shall be vested in the surviving spouse of such intestate, if any, and the surviving spouse shall be entitled to the whole of the personal estate.[11]

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[9] *Ibid.*, Sec. 14.
[10] Act of June 7, 1917, P. L. 429, Sec. 15.
[11] *Ibid.*, Sec. 17.

Persons in the Same Degree of Consanguinity take Equally. Wherever real or personal estate shall descend to or be distributed among several persons, whether lineal or collateral heirs or kindred, standing in the same degree of consanguinity to the intestate, if there shall be only one of such degree, he shall take the whole of such estate, and if there shall be more than one, they shall take in equal shares, and if real estate, shall hold the same as tenants in common.[12]

Posthumous Children. Descendants and relatives of an intestate, begotten before the death of the intestate and born thereafter, shall in all cases inherit and take in like manner as if they had been born in the lifetime of such intestate.[13]

Escheat. In default of all such known heirs or kindred, or surviving spouse, competent to take as aforesaid, the real and and personal estate of such intestate shall go to and be vested in the commonwealth by escheat.[14]

III. EXECUTORS AND ADMINISTRATORS

The process of settling the estate of a deceased person is not very different whether there is a will or otherwise. The Register of Wills' Act[15] provides that the Register shall have jurisdiction of the probate of wills and testamentary papers, of the granting of letters testamentary and of administration among certain other matters. The first step after the death is to see to it that application is made to this official by the proper parties for the issuance of letters testamentary in the case of a will, and letters of administration in the case of an intestate.

The procedure for this is outlined in the Fiduciaries' Act of 1917.[16] In case the will names an executor he is the proper person to apply for the granting of letters testamentary. If he refuses to serve, or if there is no will, it is necessary to have letters of administration. The person who receives the certificate from the Register of Wills is thereupon the official repre-

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[12] Act of June 7, 1917, P. L. 429, Sec. 19.
[13] *Ibid.*, Sec. 20.
[14] *Ibid.*, Sec. 24.
[15] Act of June 7, 1917, P. L. 415.
[16] Act of June 7, 1917, P. L. 447.

sentative of the estate of the deceased for the purpose of closing it and distributing it.

The following is the preferential order of persons eligible for the grant of letters: The widow or such of the decedent's relatives or kindred as by law may be entitled to the residue of his personal estate after payment of debts. The Register is authorized to join with the widow such relatives as he shall judge will best administer the estate, preferring always those so entitled, such as are in the nearest degree of consanguinity with the decedent, and preferring males to females. If the decedent was a married woman her husband shall be entitled to preference as administrator. In the absence of kin or executor of the estate grant of letters of administration may be made to any fit person in the discretion of the Register. It is customary in cases of intestacy for the parties who are entitled to administer to sign a paper addressed to the Register of Wills in which they renounce their right to administer in favor of some particular person.

The first step is to take an inventory and appraisement of the estate showing all the property in it. Sometimes this cannot be ascertained for a long period of time and supplementary inventories are filed. With this there is also prepared and filed a list of the debts of the estate. This is for the purpose of the Inheritance Tax Law.

It is provided that the rate of the inheritance tax shall be two per cent upon the clear value of the property subject to such tax passing to or for the use of father, mother, husband, wife, children, lineal descendants born in lawful wedlock, legally adopted children, children of a former husband or wife, or the wife or widow of the son of the descendant, and also of the clear value of such property passing from the mother of an illegitimate child, or from any person of whom the mother is a lineal descendant to such child, his wife or widow, and passing from an illegitimate child to his mother. The tax is at the rate of ten per cent upon the clear value of the property subject to such tax passing to or for the use of any other person or persons, bodies corporate or politic.[17]

In ascertaining the clear value of such estates the only deduc-

[17] Act of July 12, 1923, P. L. 1078, as amended by Act May 15, 1925, P. L. 806

tions to be allowed from the gross values of such estates shall be the debts of the decedent, reasonable and customary funeral expenses, bequests or devises in trust in reasonable amounts, the entire interest or income from which is to be perpetually applied to the care and preservation of the family burial lot or lots, their enclosures and structures erected thereon, reasonable expenses for the erection of monuments or gravestones grave and lot markers, and the expenses of the administration of such estates and no deduction whatsoever shall be allowed for, or on account of, any taxes paid on such estates to the Government of the United States or to any other state or territory. This last clause may be unconstitutional.

An administrator is under bond for the faithful performance of his task.

The Fiduciaries' Act[18] provides that the widow, if any, or if there be no widow, or if she has forfeited her rights, then the children forming part of the family of the decedent, may retain or claim property of the estate to the value of five hundred dollars. This is known as the widow's exemption and is paid ahead of the debts, except the expenses of securing the letters of administration or letters testamentary.

The Fiduciaries' Act[19] provides for the following order of payment for debts of the decedent:

1. Funeral expenses, medicine furnished and medical attendance given during the last illness of the decedent, and servant's wages not exceeding one year.
2. Rents not exceeding one year.
3. All other debts without regard to the quality of the same except debts due to the Commonwealth which shall be last paid.

The payment of debts of the second and third classes cannot be compelled until six months be fully elapsed from the granting of the administratiion.[20] It is provided that debts of a decedent shall become a lien on his real estate not longer than one year after the decease of the debtor unless action shall be brought for the recovery of the debt within a year. The law provides for

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[18] Act of June 7, 1917, P. L. 447, Sec. 12.
[19] *Ibid.*, Sec. 13.
[20] *Ibid.*, Sec. 13.

public and private sale of the real estate of the deceased to pay the debts, if the personal estate is not sufficient. Having collected the assets of the estate and paid the debts the executor or administrator is then ready to file an accounting with the Orphans' Court. This account may not be filed until six months have elapsed from the advertisement that letters testamentary or administrative have been issued. This gives creditors their opportunity to file claims. When the account is filed application is made to the court to have it approved and whatever balance there may be is distributed to the persons entitled to receive it either under the will or under the Intestate Laws.

When the decedent leaves a widow or children and an estate of five hundred or less in value, the widow or the children, if they have the right, may petition the Orphans' Court to appoint appraisers to appraise the property and set it aside for the petitioner with the same effect as if the process had been through the Register of Wills with the appointment of an executor or administrator.*

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*Note: Other laws are Acts of 1925, May 2, P. L. 442, May 13, P. L. 687, May 14, P. L. 717, May 13, P. L. 689, May 15, P. L. 806. Acts of 1927, May 13, P. L. 985, No. 476, April 27, P. L. 425, April 27, P. L. 427.

Chapter V

LAWS RELATING TO WORKMEN'S

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I. INFORMATION RELATING TO WORKMEN'S COMPENSATION ACT IN PENNSYLVANIA

Information Relating to Employers and Employees Who Have Not Served Notice of Rejection of Article III, and are Therefore Subject to Its Provisions

Original Act Passed June 2, 1915, P. L. 736; Amended June 26, 1919, P. L. 642, Effective January 1, 1920. Additional Amendments Effective May 20, 1921, P. L. 966; March 29, 1923, P. L. 48 and July 11, 1923, P. L. 1060 No. 432; May 2 and May 14, 1925, P. L. 714, No. 387; Acts 1927, April 13, P. L. 186, January 1, 1928.

a. Applies to All Accidents

In Pennsylvania in "course of employment" causing disability for more than 10 days—or death in 300 weeks. (Except when intentionally self-inflicted or caused by a third person for personal reasons.) It does not cover occupational diseases.

b Employees Excepted

Domestic Servants, Agricultural Workers, Home Workers and Casual Workers not employed in employer's regular business. Children illegally employed.

c. Compulsory

On State, County, City, Borough, Township, School "or any other governmental authority created by the laws of this Commonwealth."

d. Optional

With all other employers and all employes.

*e. Insurance**

Every employer electing to come under Article III, must insure to cover liability to his employes and may do so in

1. The State Insurance Fund
2. A stock Company
3. A mutual Company, or
4. Carry his own Insurance, if permitted by the Board.

f. Wages

Mean the money rate at which the services rendered is recompensed under the contract of hiring in force at the time of the accident. Not including gratuities nor amounts deducted by employer under contract of hiring for labor furnished or paid for by the employer and necessary for the performance of such contract by the employee; but shall include board and lodging received from the employer, such board to be rated at $.50 per day and board and lodging at $1.00 per day for the purpose of computing wages:

g. Occupations

(a) Seasonal
(b) Continuous.

h. Average Weekly Wage

In seasonal occupation determined by taking 1/50 of the total earnings employee has earned from all occupations during year, immediately preceding accident. Such period of a year may be extended to a longer period for the purpose of fair ascer-

*Note:—If, after 30 days' notice, he should fail to insure an injured employee, his dependents or his personal representative, if injury is fatal, may elect to sue at law for damages under Article II, or demand compensation under Article III of the act.

tainment of average weekly earnings. Average weekly wage in continuous employment determined by multiplying average daily wage by 5½, 6, 6½, or 7, according to the number of days customarily worked by the employee.

i. Average Daily Wage

Divide the total earnings of the employee for as much of the six months immediately preceding the accident that the employee worked for the same employer, by the number of working days in the period, which are to be determined by deducting from the total number of calendar days, Sundays, Saturday half-holidays, and days when the employee was prevented from working through no fault of his own. The amendment of 1919 provides that where the employee has been in the employ of the employer less than one full week, and by reason of the shortness of time, it is impracticable to ascertain the average weekly wage, there shall be taken the average weekly amount which during the six months previous to the injury, has been earned by other persons employed by the same employer under similar contracts of hiring, or if there are no persons so employed, by other persons employed by other employers, under similar contracts of hiring under similar conditions.

j. No Compensation

Allowed for first ten days, but employer must furnish reasonable medical services from the time of the accident until the 31st day after disability begins at a cost not to exceed $100.00, in addition to the above services, medicines and supplies, hospital treatment, services and supplies shall be furnished by the employer for the said period of thirty days. The cost for hospital treatment, service and supplies shall not in any case exceed the prevailing charge in the hospital for like services to other individuals.

k. Important

Employees should report all accidents, regardless of how trifling the case may be, to the foreman or person in charge. The records of the Bureau of Workmen's Compensation show that trifling accidents frequently result in infection; causing the loss of members by amputation, and in many cases death results.

New Compensation Schedule:

Table compiled by the Bureau of Workmen's Compensation showing increase in compensation benefits under the Amendments to the Workmen's Compensation Law, also showing schedule of rates payable for accidents occurring prior to January 1, 1928.

TOTAL DISABILITY	PRIOR TO JANUARY 1, 1928	AFTER JANUARY 1, 1928
Percentage of wages	60 per cent	65 per cent
Maximum per week	$12.00	$15.00
Minimum per week, or actual wages, if less	6.00	7.00
Maximum amount	5,000	$6,500
Maximum period	500 weeks	500 weeks
Partial Disability:		
Percentage of loss in earning power	60 per cent	65 per cent
Maximum per week	$12.00	$15.00
Maximum period	300 weeks	300 weeks
Specific Schedule:		
Allowance for permanent injuries		
No change in number of weeks but percentage changed	60 per cent	65 per cent
Disfigurement:		
Wages	60 per cent	65 per cent
Maximum period	150 weeks	150 weeks
Permanent loss of use of finger or thumb to be considered as equivalent to the loss of such finger or thumb. Compensation per week under Section 306 (c)		
Maximum	$12.00 During	$15.00
Minimum or actual wages, if less	6.00 Disability	7.00
Waiting Period	10 days	7 days
Death:		
Maximum period (Except as noted under orphaned children)	300 weeks	300 weeks
Basic Wage Weekly:		
Maximum	$20.00	$24.00
Minimum	10.00	12.00

	PRIOR TO JAN. 1, 1928 PER CENT	AFTER JAN. 1, 1928 PER CENT	AFTER JAN. 1, 1928 MAX. WEEKLY
Schedule of Benefits:			
Widow—no children	40	44	$10.00
Dependent widower	40	44	10.00
Widow or widower—1 child	50	55	12.50
Widow or widower—2 children	60	62½	14.00
Widow or widower—3 children or more	60	65	15.00
Orphaned children—1 or 2	30	33	7.50
Orphaned children—3	40	44	10.00
Orphaned children—4	50	55	12.50
Orphaned children—5	60	62½	14.00
Orphaned children—6 or more	60	65	15.00
Orphaned Children: (Compensation of each child to continue after 300-week period until such child reaches the age of 16)			
One child	15	17½	$3.75
2 children	25	27½	6.25
3 children	35	38½	8.75
4 children	45	50	11.25
5 children	50	55	12.50
6 or more	50	60	13.75
Parents (one or both) partially dependent	20	25	5.00
Parents (one or both) totally dependent	40	45	10.00
* Brothers and Sisters 1	15	15	
* Brothers and Sisters 2	20	20	
* Brothers and Sisters 3	25	25	
Burial Expense	$100.00		$150.00

For more detailed information as to the compensation law, reference should be made to the Special Bulletins of the Department of Labor and Industry of the Commonwealth of Pennsylvania. In particular Bulletin No. 12 Pennsylvania Workman's

* Only brothers and sisters under sixteen years of age actually dependent to any extent upon decedent for support at the time of his death are covered by the Act.

Compensation Laws as of August 1, 1926, with the amendments thereto made by the Act of April 13, 1927, No. 156 P. L. 186.

II. PROCEDURE

The employer must be notified of the injury either by actual knowledge or notice within fourteen days after the accident, or no compensation is due until notice given or knowledge obtained. Unless knowledge is obtained or notice given within ninety days after the injury no compensation is allowed. The form of notice is prescribed by the act. Notice may be served personally upon the employer or upon the manager or superintendent, or by registered mail to the last known residence or place of business.

At any time after an injury the employee must submit himself for examination to physicians selected by the employer or be deprived of his right to compensation. He may have a physician of his own selection paid by him participate in the examination whether ordered by the employer or by the board.

Claims for compensation must be filed within one year from the date of the accident or of the death.

Compensation may be commuted by the Board at any time at its then value when discounted at 5 per cent interest with annual rests, disregarding the probability of the beneficiary's death upon application of either party if it appear to be for the best interest of the employee or the dependents of the deceased employee, and that it will avoid undue expense or undue hardship to either party, or that such employee or dependent has removed, or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets. The employer may pay the award to a trustee in trust for the employee or his dependents who shall then have no other recourse against the employer.

The procedure is detailed and prescribed by the act providing for petitions to referee and appeals to the board. On or after the tenth day of an accident the employer and employee or his dependents may agree upon the compensation payable. This agreement is subject to the approval of the board. If there is a failure to agree, application is made to the board which holds

hearings and proceeds largely as a court although not bound by technical rules of evidence and an appeal is allowed to the court of Common Pleas and the Supreme Court.

III. EMPLOYERS' LIABILITY UNDER FEDERAL LAW

a. Railway Employees

Liability for Railroad employees covers liability of railroads for death or injuries to employees from negligence. Liability in case of death is to surviving widow or husband and children, and if none, then to employee's parents, and if none then to next of kin. Liability is such as proceeds from negligence of officers, agents or employees or from any defect of insufficiency due to employers negligence in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves or other equipment.[1]

Contributory negligence is no bar to recovery but the damages shall be diminished by the jury in the proportion to the amount of negligence attributable to the employee.[2]

Suit under this act is in the Federal Courts.

The defense of assumption of risk may not be raised.[3]

Any contract exempting employer from liability is invalid.[4]

Suit must be started within two years from the day the cause of action accrued.[5]

b. Compensation for Injuries to Federal Employees

The United States pays compensation as specified for disability or death of an employee resulting from a personal injury sustained while in performance of his duty, but no compensation shall be paid if the injury or death is caused by the wilful misconduct of the employee or by the employee's intention to bring about the injury or death of himself or another, or if intoxication of the injured employee is the proximate cause of the injury or death.[6]

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[1] Act of April 22, 1908, Chap. 149, Par. 1. 35 Statute 65.
[2] *Ibid.*, Par. 3.
[3] *Ibid.*, Par. 4.
[4] *Ibid.*, Par. 5.
[5] *Ibid.*, Par. 6 as amended by Act of April 5, 1910, Chap. 143.
[6] Act of September 7, 1916, Chap. 458, amended by Act of December 24, 1919, Chap. 17; Act of June 13, 1922, Chap. 219; Act of June 5, 1924, Chap. 261; and Act of June 26, 1926, Chap. 695.

The act then provides for the procedure to be followed in making the claim. This consists of notice of the injury and physical examination.

An Employee's Compensation Commission is established.

Provisions of Federal Employers' Liability Act

No compensation is payable for the first three days of injury[7]

Where there is total disability the maximum compensation is 66⅔ per cent of the monthly pay.[8] Where there is partial disability compensation is 66⅔ per cent of difference between monthly pay and monthly wage earning capacity after the beginning of the disability.[9] The amount shall not be more than one hundred sixteen dollars and sixty-six cents a month for total or partial disability nor less than fifty-eight dollars thirty-three cents a month in case of total disability.[10] The United States pays for medical, surgical and hospital services and supplies and transportation.[11]

If death results from the injury within six years compensation is payable to certain persons of which the following are illustrations: (a) to widow if there is no child, 35 per cent of employee's pay until her death or marriage;[12] (b) to the widower if there is no child 35 per cent if he is wholly dependent upon deceased employee at the time of her death, to be paid until his death or remarriage;[13] (c) to the widow or widower as above if there is a child an additional 10 per cent for each child not to exceed 66⅔ per cent.[14] The compensation payable for the child ceases when he dies, marries or reaches eighteen years of age, or if over eighteen and unable to support himself, when he becomes capable of self-support.[15] The law also provided for burial expenses not to exceed two hundred dollars.[16]

c. World War Veterans

The World War Veterans Act[17] establishes the Bureau and

[7] Act of June 26, 1926, Chap. 695—the original act made this provision but it was liberalized in 1926.

[8] Original act, approved Sept. 7, 1916, Chap. 458; 39 Statutes 742.

[9], [10], [11], [12], [13], [14] *Ibid.*

[15] Maximum raised from $66.67 to $116.66. Public 603–1927. Minimum raised from $33.33 to $58.33.

[16] Raised from $100—Public 603—1927, Chap. 110, Session II 69th Congress, Feb. 12, 1927.

[17] Act of June 7, 1924, Chap. 320 and Act of July 2, 1926, Chap. 723.

provides for compensation, insurance, vocational training or maintenance and support and placement of inhabilitated persons.

There is also a world war adjusted compensation act[18] and War Risk Insurance Act.[19]

The new Federal Longshoremen's and Harbor Workers Compensation act went into effect in 1927.[20]

d. Federal Law Covering Longshoremen and Harbor Workers

Law is enacted covering longshoremen and harbor workers for death and injury not covered by state laws when the injury occurs on navigable waters, including dry docks. It excludes masters and crews of vessels, workers loading, unloading or repairing vessels under eighteen tons, and all federal and state employees. The United States employee's commission administers the act, establishing compensation districts under deputy commissioners, and cooperating with state compensation and rehabilitation agencies. The percentage of wages for injury is 66⅔, weekly maximum and minimum $25 and $8 total maximum payment, for injury or death $7,500. Death benefits are a percentage of wages, varying with the number and character of dependents; continuing for widow during widowhood with a lump sum dower of two years' compensation upon remarriage; for children until eighteen years of age. Burial allowance is $200, in addition to other death benefits. Non-resident aliens are entitled to full benefits, but dependents are limited to widow and children, or if none, to one parent. Occupational disease is considered the same as an accidental injury. Medical aid is unlimited as to period and amount. Additional maintenance allowance of ten dollars per week during period of rehabilitation and extra compensation for second injury are both paid from a special fund maintained by payments of $1,000 required in fatal cases where there are no dependents. Waiting period is one week, retroactive after seven weeks. (Public 803, 69th Congress, 2nd session.)

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[18] Act of May 19, 1924, Chap. 157. Also Act of Feb. 11, 1927, Chap. 5, Public 601.

[19] Act of September 2, 1924, Chap. 293, as amended by Acts of June 12, 1917, Chap. 26; October 6, 1917, Chap. 105; June 25, 1918, Chap. 104; and August 9, 1921, Chap. 57.

[20] Chapter 509 of Public Laws 69th Congress Session II March 4, 1927.

IV. REHABILITATION

A Bureau of Rehabilitation was created by statute in the Department of Labor and Industry to assist residents of the Commonwealth of Pennsylvania whose capacity to earn a living has in any way been destroyed or impaired through industrial accident occurring in the Commonwealth, to engage in remunerative occupations.[21]

Pennsylvania accepted the benefits of a Federal Vocational Rehabilitation Act which covers the disabled in general in contrast to the state law covering only industrial accident cases. The acceptance of the federal act involved a matching of funds by the federal government.[22]

Those exempt from the services of the Bureau are aged or helpless persons requiring permanent custodial care, or blind or deaf persons under the care of any State or semi-State institution, or any epileptic or feeble-minded person, or any person who may not be susceptible to such rehabilitation.

The functions of the Bureau are:

To receive applications of any physically handicapped persons for advice and assistance regarding their rehabilitation. To arrange for such therapeutic treatment as may be necessary for the rehabilitation of any physically handicapped persons who have registered with the Buresu.

To procure and furnish at cost to physically handicapped persons who have registered with the chief of the bureau limbs and other orthopedic and prosthetic appliances, to be paid for in easy installments, when such appliances cannot be otherwise provided; Provided, however, That if it be shown that any physically handicapped person is unable to pay for such artificial limbs or other appliances, the chief of the bureau may direct, with the approval of the commissioner, that such limbs or appliances shall be supplied to such physically handicapped person and the cost thereof paid out of the funds appropriated for the rehabilitation activities of the bureau; such payments to be made by the State Treasurer on the warrant of the Auditor General or requisition of the Commissioner of Labor and Industry

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[21] Act 418 July 18, 1919, P. L. 1045.

[22] Act of, March 2, 1921, P. L. 12.

To arrange with the Superintendent of Public Instruction for training courses in the public schools in the Commonwealth in selected occupations for physically handicapped persons registered with the chief of the bureau.

To arrange with any educational institution for training courses in selected occupations for physically handicapped persons registered with the chief of the bureau.

To arrange with any public or private organization or commercial, industrial, or agricultural establishment, for training courses in selected occupations for physically handicapped persons registered with the chief of the bureau.

To provide maintenance costs during the prescribed period of training for physically handicapped persons registered with the chief of the bureau: Providing, That when the payment of maintenance costs is authorized by the chief of the bureau, with the approval of the Governor, it shall not exceed fifteen dollars ($15.00) per week, and the period during which it is paid shall not exceed twenty weeks, unless an extension of time is granted by the commissioner; said payments to be made by the State Treasurer on the warrant of the Auditor General on requisition of the Commissioner of Labor and Industry.

To arrange for social service, for the visiting of physically handicapped persons registered with the chief of the bureau and of their families in their homes, during the period of treatment and training and after its completion, to give advice regarding any matter that may effect rehabilitation.

To conduct investigations and surveys of the several industries located in the Commonwealth to ascertain the occupations within each industry in which physically handicapped persons can enter upon rehabilitation.

CHAPTER VI

MARRIAGE, DIVORCE AND THE RIGHTS OF MARRIED PERSONS

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I. THOSE WHO MAY NOT MARRY

If persons within the degrees of consanguinity mentioned hereafter marry, it is unlawful; the penalty being a fine not exceeding five hundred dollars and imprisonment by separate or solitary confinement at labor not exceeding three years, and all such marriages are declared void.[1]

1. A man may not marry his mother.
   A man may not marry his father's sister.
   A man may not marry his mother's sister.
   A man may not marry his own sister.
   A man may not marry his own daughter.
   A man may not marry the daughter of his son or daughter.

[1] Act of March 31, 1860, P. L. 382, Section 39.

2. A woman may not marry her father.
   A woman may not marry her father's brother.
   A woman may not marry her mother's brother.
   A woman may not marry her own brother.
   A woman may not marry her son.
   A woman may not marry the son of her son or daughter.
3. A man may not marry his father's wife.
   A man may not marry his son's wife.
   A man may not marry his son's daughter.
   A man may not marry his wife's daughter.
   A man may not marry the daughter of his wife's son or daughter.
4. A woman may not marry her mother's husband.
   A woman may not marry her daughter's husband.
   A woman may not marry her husband's son.
   A woman may not marry the son of her husband's son or daughter.

The marriage of first cousins is prohibited, but such marriages are simply void and there is no criminal offense.[2]

The marriage of first cousins in States where such marriages are legal will be recognized as legal in Pennsylvania if the couple move to Pennsylvania even though they were married in the other State for the specific purpose of avoiding the Pennsylvania Law.

Persons under sixteen years of age—no licenses to marry shall issue if either applicant therefor be under the age of sixteen years; Provided, That a judge of the Orphans' Court shall have discretion to authorize a license to be issued by the clerk of the Orphans' Court in special cases where one or both persons are under the age of sixteen years.[3]

II. PROCEDURE TO BECOME MARRIED

There are three methods, marriage by license through the authority of some person authorized to perform marriages, mar-

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[2] Act of June 24, 1901, P. L. 597.
[3] Act of March 24, 1927, P. L. 64, No. 44.

riage by license where the parties marry themselves, and common law marriage.

a. Marriage by License

The law prescribes the form of license.[4]

The requisties to the issuance of a marriage license are as follows:—[5]

The clerk of the Orphans' Court who has charge of such matters shall inquire of the parties applying, either separately or together for marriage license, relative to the legality of the contemplated marriage, the age of the parties and certain special matters. In the case of the marriage of minors, see Chapter 1.

The penalty for solemnizing a marriage without a license is a fine of one hundred dollars.[6]

The duplicate certificate shall be returned to the clerk of the Orphans' Court and a certified copy of the record is made prima facie evidence of marriage.[7]

Marriage shall not be celebrated without a license.[8] This license shall be procured from the clerk in the county where either of the contracting parties resides, or in the county where the marriage is performed. One or both of the applicants shall be identified to the satisfaction of the clerk. The license shall authorize the marriage ceremony in any county of the commonwealth.

The procedure of securing a license:—[9] It is made on a written and verified application, which contains a statement of the full Christian name and surname, color, occupation, birthplace, residence and age of the parties, whether the marriage contemplated is the first, second or other marriage, and that neither of the contracting parties is afflicted with a transmissible disease, together with the full Christian name and surname, residence, color, occupation and birthplace of their parents, including the maiden name of the mother, together with such other facts as may be necessary to determine whether any legal impediment

[4] Act of May 9, 1906, P. L. 446.
[5] Act of May 28, 1915, P. L. 636.
[6] Act of June 23, 1885, P. L. 146, Sec. 5
[7] *Ibid.*
[8] Act of June 18, 1895, P. L. 202.
[9] Act of July 24, 1913, P. L. 1013.

to the proposed marriage exists. The State Department of Health furnishes a uniform form.

No license to marry shall be issued where either party is an imbecile, epileptic, of unsound mind or under guaradianship of a person of unsound mind, nor to any male person who is or has been within five years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed, and that such male applicant is physically able to support a family, or if at the time of making application either of the parties is under the influence of intoxicating liquor or narcotic drug, and no license shall be valid for a longer period than sixty days from the date of issue. Where the clerk refuses the license the matter may be heard by a Judge of Orphans' Court.

The expense of a marriage license is fixed at two dollars and fifty cents.[10]

b. Marriage by License where the Parties Marry Themselves

Marriage where the parties marry themselves is substantially the same as where there is an officiating clergyman or justice. The parties proceed to the clerk of the Orphans Court and request the form of license authorizing them to perform the ceremony without the aid of a clergyman or justice. The preliminaries are identical with the more usual form.

The license itself however, is different in form to meet the different situations.

The ceremony consists in a statement by the two parties in the presence of witnesses that they take each other respectively as husband and wife. The two parties then fill out the portion of the license prepared for the purpose and return it to the clerk of the Orphans' Court. This form of marriage is customarily used by the members of the Society of Friends.

c. Common Law Marriage

Provided the parties are competent to marry, a marriage will be valid even though informal, as, for example, where no license has been issued or where the person performing the ceremony

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[10] Act of May 2, 1925, P. L. 494, No. 268.

is not authorized to perform it or where minors marry without their parents' consent. The law requires no particular form of ceremony. If the parties take each other for man and wife in the presence of witnesses, they are married. There are some cases where people have been held to be married even though there was no ceremony of any sort in the presence of witnesses. Such marriages, sometimes called "common law marriages" arise where persons competent to marry live publicly in the relation of husband and wife and hold themselves out as being married. Such marriages are, however, far more rare than is commonly supposed and there is a growing tendency of the courts to find that irregular unions are not marriages. The term, "common law marriage," is frequently misused to describe a union of persons to whose marriage there is some obstacle, such, for example, as where one of the parties has an invalid divorce.

d. Bigamous Marriages

In the case of a bigamous marriage application may be made by the innocent or injured party for their own protection, to the courts in the county where the marriage was contracted or where either the libellant or respondent resides, and the residence of the libellant within the county for any period shall not be required.[11]

III. ANNULMENT AND DIVORCE

a. Annulment

Irrespective of the manner in which a marriage is completed there are various ways in which the relationship may be dissolved. The marriage service itself contemplates dissolution only in case of death. The two other methods are by annulment and divorce.

An annulment is a proceeding by which the court declares that the marriage never existed between the parties. It would appear that annulments are granted in the case of incestuous marriage[12] and where a marriage has taken place on the false rumor of death of the husband or wife.[13]

Either a divorce or annulment is granted where the marriage is procured by fraud, force or coercion and has not been sub-

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[11] Act of April 14, 1859, P. L. 647, as amended by the Act of March 29, 1927, P. L. 71.

[12] Act of March 13, 1815, 6 Sm. L. 286, Section 5.

[13] *Ibid.*, Section 6.

sequently confirmed by the act of the injured party. If the husband makes the application for the divorce the court shall allow alimony to the wife in the discretion of the court.[14]

Where a divorce itself is granted the proceeding is one that declares that the original marriage was valid but dissolves that marriage. There are two sorts of divorce.

A divorce from bed and board:[14] If any husband shall maliciously either abandon his family or turn his wife out of doors or by cruel and barbarous treatment endanger her life or offer such indignities to her person as to render her condition intolerable or life burdensome and thereby force her to withdraw from his house and family. Such a divorce provides that the court may allow the wife alimony not to exceed the third part of the annual profit or income of his estate or of his occupation and labor which shall continue until a reconcilation shall take place or until the husband shall by his petition to the court offer to receive and cohabit with her again and to use her as a good husband ought to do, in which case the court may suspend the sentence of decree or in case of her refusal to return and cohabit, discharge the decree.

A married woman may obtain a divorce from bed and board with allowance of alimony in case of adultery, and in this case the alimony may equal one-half of the value of all of the property which the husband may have received by, through or from his wife as her individual property.[15] This sort of a divorce does not permit remarriage.

The customary form of divorce is the absolute divorce. The most important factors in securing a divorce are first the conditions under which the court acquires jurisdiction of the individual and secondly the causes for which a divorce may be granted.

*b. Jurisdiction of Actions for Divorce**

The first requisite to commencing a divorce is that the person

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[14] Act of May 8, 1854, P. L. 644.

[15] Act of February 26, 1817, 6 Sm. L. 405

* Note: The following information as to divorce is secured from the second edition of Sturgeon's "The Pennsylvania Law and Procedure in Divorce," published by Geo. T. Bisel and Company, Philadelphia, 1923. Reference should be made to this book for more detailed information.

desiring the divorce known under our law as the libellant, must bring himself or herself within the jurisdiction of the state courts either by becoming a citizen or acquiring a bona fide residence in the state for the term of one whole year prior to and immediately preceding the starting of the case.[16] The words "bona fide" mean a residence acquired with the intent to make the state the home and not merely the intent to live in the state for the purpose of obtaining the divorce and then moving away. Jurisdiction is provided for even though the causes occurred outside the state.[17] Where the husband and wife reside in different counties, the injured party may institute proceedings in either county.[18]

When the respondent, that is the person against whom the proceeding is instituted, lives outside the state or when his or her residence is unknown the law provides for the court securing jurisdiction over such person by publication,[19] in detail.[20] The law fully outlines the usual procedure in divorce cases.[21]

Where a divorce has been granted against a non-resident respondent who was not served with process, there is a question whether other states will recognize the divorce. That question is determined by the law of the state in which the question arises.

The causes of divorce in Pennsylvania at the suit of the husband are the following:—

Those existing prior to the marriage—

Consanguinity, affinity and impotency

Fraud, force or coercion

Precontract or bigamy

Those causes occurring subsequent to the marriage—

Adultery, second marriage or bigamy and desertion.[22]

Conviction and sentence, cruel and barbarous treatment.[23]

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[16] Act of April 11, 1862, P. L. 430.

[17] Act of March 13, 1815, 6 Sm. L. 286, Section 11; Act of Feb. 27, 1847, P. L. 169; and the Act of May 9, 1913, P. L. 191.

[18] Act of April 13, 1911, P. L. 60.

[19] Act of April 26, 1905, P. L. 309.

[20] Act of May 9, 1913, P. L. 191.

[21] Act of June 20, 1893 P. L. 471 and Act of May 9, 1913, P. L. 191.

[22] Act of May 8, 1919, P. L. 164; and the Act of March 19, 1923, P. L. 20, No. 14.

[23] Act of March 13, 1815; 6 Sm. L. 286, Sec. 1, as amended by Act June 28, 1923, P. L. 886 and the Act of March 29, 1927, P. L. 71.

Indignities to the person.[24]

Impotency, bigamy, adultery, desertion and cruelty.[25]

The causes of divorce in Pennsylvania at the suit of the wife are the following:—

Those existing prior to the marriage—

Consanguinity, affinity and impotecny.[26]

Fraud, force or coercion.[27]

Precontract or bigamy.[28]

Those occurring subsequent to the marriage—

Adultery, desertion, cruel and barbarous treatment, indignities to the person, second marriage or bigamy.[29]

Abandoning wife or family, turning the wife out of doors, cruel and barbarous treatment, indignities to her person.[30] } From bed

Adultery.[31] } From bed

Conviction and sentence.[32] } From bed

Adultery and desertion.[33] } and board

Impotency, bigamy, adultery, desertion and cruelty.[34] } and board

Of these causes for divorce three need special explanation.

c. Desertion

Desertion is defined[35] as where either party shall have committed wilful and malicious desertion and absence from the

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[24] Act of May 8, 1854, P. L. 644, as amended by the Act of 1895, June 25. P. L. 308, Sec. 1 and Act of April 4, 1925, P. L. 124, Act of May 1, 1909, P. L. 374.

[25] Act of June 25, 1895, P. L. 308, Sec. 1.

[26] Act of June 28, 1923, P. L. 886; Sec, 1, amending Act of March 13, 1815, Sec. 1; 6 Sm. L. 286.

[27] Act of March 13, 1815; 6 Sm. L. 286, Sec. 5.

[28] Act of May 8, 1854, P. L. 644, Sec. 1.

[29] Act of April 14, 1859, P. L. 647, as amended by the Act of March 29, 1927, P. L. 71.

[30] Act of March 13, 1815; 6 Sm. L. 286.

[31] Act of February 26 1817,. 6 Sm. L.405, Sec. 1.

[32] Act of April 11, 1862, P. L. 430, Sec. 1.

[33] Act of May 1, 1909, P. L. 374, Sec. 1, amending Sec. 2 of the Act of 1903, March 9, P. L. 19, which amended clause 2, Sec. 1, of the Act of 1854, May 8, P.L. 644, and repealed the Act of 1891, June 1, P. L. 142, Sec. 1, which also, amended the Act of 1854.

[34] Act of April 4, 1862, P. L. 430.

[35] Act of June 28, 1923, P. L. 886, Sec. 1. For the details of these causes of divorce see Sturgeon, "Divorce."

habitation of the other without a reasonable cause for and during the term and space of two years; mere separation is not desertion. The wilful and malicious element is evident only when without cause or consent either party withdraws from the residence of the other and the desertion is an actual abandonment of matrimonial cohabitation with an intent to desert wilfully and maliciously and persisted in for two years without cause.[36]

Where the husband intentionally deserts his wife and in two years is arrested and is imprisoned for two years, he is guilty of desertion.[37]

Where the husband and wife continue to occupy the same house, it is not desertion.[38]

Reasonable cause justifying desertion is defined[39] as such only which will entitle the respondent to a divorce should he or she apply. For instance, non-support of the wife is not reasonable cause nor is mistreatment of the wife's child or husband's child, nor nagging nor neglecting of domestic duties.

A refusal of request to return amounts to desertion,[40] and one request is sufficient.[41]

A recent act makes it possible to expedite the process of getting a divorce.[42]

d. Cruel and Barbarous Treatment

When any husband shall have by cruel and barbarous treatment endangered his wife's life, he shall be guilty of this offense.[43] Actual personal violence or the reasonable apprehension of it or such a course of treatment as endangers her life or health and renders cohabitation unsafe, the latter may exist without the former, is likewise included.[44] It is said, "Cruelty has frequently been defined as actual personal violence or conduct

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[36] Act of March 13, 1815; 6 Sm. L. 286.
[37] Hartner vs. Hartner, 75 Super 342.
[38] Heiter vs. Heiter, 21 D. R. 327.
[39] Augenstein vs. Augenstein, 45 Super 258.
[40] Butler and Butler, 1 Pars. 329.
[41] Rosenberry and Rosenberry, 180 Pa. 221.
[42] Wucheren vs. Wucheren, 68 Pitts. 733.
[43] Act of April 27, 1927, P. L., 406, No. 264.
[44] Act of 1815, 6 Sm. L. 286.

causing reasonable apprehension of it, or such a course of treatment as endangers life, limb or health and renders cohabitation unsafe."[45] In determining what conduct constitutes cruelty regard must be had to the provisions of the statute and the circumstances of the particular case keeping always in view the physical and mental conditions of the parties and other essential facts. Wounding mental feelings alone is not cruelty.[46] The elements of cruelty are mostly manifested by such acts as communication of disease, failure to provide necessaries of life, false charges of adultery and sexual excesses.[47] Cruelty is distinguished from indignities to the person by the fact that cruelty must endanger life or health and is a cause for divorce equally available to husband and wife, while indignities to the person must render the libellant's condition intolerable and life burdensome while not endangering life or health.[48] A single act of violence unless it endangers life is not sufficient. Mental cruelty and mere angry altercation are not the same.

e. Indignities to the Person

Indignities to the person where the wife is libellant consist of a course of conduct such as renders the wife's condition intolerable and life burdensome and thereby force her to withdraw from her husband's house and family.[49] This is also defined as being a course of humiliating insults and annoyances practiced in the various forms which ingenious males could readily devise and which would eventually destroy the life and health of the wife although such conduct may be unaccompanied by violence positive or threatening, a single act is not sufficient.[50] The acts constituting indignities are such as accusing the libellant of insanity and causing mental suffering, making charges against the wife's chastity when coupled with other indignities. Assaults, threats, insults, intoxication, extreme brutality may be taken by the court in a specific case as indignities to the person. A

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[45] Butler vs. Butler, Supra.
[46] Breene vs. Breene, 76 Super 568.
[47] Butler vs. Butler, Supra.
[48] Hansel vs. Hansel, 15 County Court 514.
[49] Powers Appeal 120 Pa. 320.
[50] Act of 1815, 6 Sm. L. 286.

husband has similar rights where the wife inflicts the indignities.[51] It should be kept in mind that a course of conduct persisted in is necessary to create this cause and not a single isolated act.

f. Alimony

There are two kinds of alimony—one during the continuance of the divorce proceedings, and the other permanent. Unlike many other states Pennsylvania does not have permanent alimony except in the limited number of cases hereinafter referred to. It is uniform practice to allow a wife such reasonable sum as will enable her to carry on and defend the divorce proceedings. The amount and duration is in the discretion of the court.[52] The husband may also be required by custom to pay the wife's counsel fees, costs and expenses.

Permanent alimony is allowed in divorces—

1. From bed and board.[53]
2. Where the divorce is absolute for fraud, force or coercion, for cruel and barbarous treatment of the husband by the wife.[54] (There is some question as to this.)
3. Where the husband or wife while insane is divorced from the other on legal grounds.[55]

g. Insanity

Insantity is not a cause of divorce[56] but insanity does not prevent the other person from obtaining a divorce if there are grounds for it recognized by law.[57] Some courts misconstruing this law, already granted divorces on the grounds of insanity and it was found necessary to pass another act validating those

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[51] Butler vs. Butler.
[52] Act of 1895, P. L. 308.
[53] Hartje vs. Hartje, 39 Super 490.
[54] Act of February 26, 1817, 6 Sm. L. 405.
[55] Act of 1854, P. L. 644 as amended by the Act of June 25, 1895, P. L. 308, and Act of April 4, 1925, P. L. 124.
[56] Act of April 18, 1905, P. L. 211, Sec. 1 Clause D.
[57] Baughman vs. Baughman, 34 Super 271.

divorces but making it clear that insanity is not a new ground of divorce.[58]

IV. DESERTION AND NON-SUPPORT

If any husband or father being within the limits of this Commonwealth, has or hereafter shall separate himself from his wife or his children or from wife and children without reasonable cause or shall neglect to maintain his wife or children, it shall be lawful for any alderman or justice of the peace or magistrate of this Commonwealth upon information made before him under oath, or affirmation by his wife and children or either of them or by any other person or persons, to issue his warrant to any sheriff or to any constable for the arrest of the person against whom the information shall be made and bind him over with one sufficient surety to appear at the next court of quarter sessions there to answer the charge of desertion,[59] and the law outlines the procedure.[60]

The court of quarter sessions after a hearing may order the individual, being of sufficient ability, to pay such sum as the court shall think reasonable and proper for the comfortable support and maintenance of the wife or children or both and commit such person to the county prison there to remain until he comply with such order or give security by one or more sureties to the commonwealth in such sum as the court shall direct for the compliance therewith. The court may issue a property writ of execution against any property, real or personal, belonging to the defendant or to which he may be in any way entitled, under a spendthrift trust or otherwise and the execution shall become a lien against the property. The defendant shall not be entitled to the benefits of any exemption law.[61] The costs of the proceeding shall be the same as are now allowed by law in cases of the surety of the peace.[62]

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[58] Act of April 18, 1905, P. L. 211.
[59] Act of May 13, 1927, P. L. 991.
[60] Act of April 13, 1867, P. L. 78.
[61] Act of June 15, 1917, P. L. 614.
[62] Act of June 15, 1917, P. L. 614, as amended in some details, by the act of May 10, 1921, P. L. 434.

If the defendant removes to another county, he may be arrested and brought back.

After the defendant has been imprisoned for three months, if the court is satisfied of his inability to comply with the court order, he may be discharged from the imprisonment.[63]

Desertion and non-support of wife and children without reasonable cause when such wife and children are destitute or are dependent wholly or in part on their earnings for adequate support, makes the husband guilty of a misdemeanor and subject to imprisonment not exceeding one year and a fine not exceeding one hundred dollars, or either or both.[64] The court may suspend sentence during compliance by the defendant with the order for support. The property of a deserting husband or a husband whose whereabouts are unknown who has neglected or refused to support his wife may be seized by the court and sold to provide her with suitable maintenance.[65] Separation by the husband from wife or children without reasonable cause or wilful neglect to maintain the wife or children who are destitute or dependent wholly or in part on their earnings for adequate support, is a misdemeanor; penalty, imprisonment not exceeding one year, fine not exceeding one hundred dollars or fine may be paid to the wife or children.[66] Conviction does not affect the obligation to pay any support order. The court may suspend sentence during compliance by the defendant of the court order or may modify the order. A magistrate or justice of the peace hearing a desertion case shall make his return if any, immediately to the clerk of quarter sessions and the court of quarter sessions may dispose of the complaint whenever it is convenient.[67] On a support order in favor of the wife or children, the court may issue execution against any real property owned by the husband and wife by entireties.[68]

The court may appoint one or more discreet persons of good character to serve as desertion probation officers during the pleasure of the court for the performance of such duties as the

[63] Act of April 13, 1867, P. L. 78.
[64] Act of April 15, 1869, P. L. 75.
[65] Act of March 13, 1903, P. L. 26, Sec. 2.
[66] Act of July 21, 1913, P. L. 867.
[67] Act of July 12, 1919, P. L. 939.
[68] Act of April 27, 1909, P. L. 260.

court shall direct. The probation officers shall make such investigation as may be required by the court, furnish the court such information and assistance as required, take charge of any defendant before or after trial as directed and collect and pay over to the proper person money ordered to be paid by the defendant.[69] In court proceedings, the court may imprison the defendant at hard labor as well as the other alternatives allowed and may direct that the earnings of the defendant, that is the sum of sixty-five cents a day, Sunday and legal holidays only excepted, shall be paid to the proper person. If a bail bond is forfeited the court may order the sum collected on it, paid to the proper persons.[70] This law shall also apply in any proceedings where any child of full age has neglected or shall neglect to maintain his or her parents not able to work or of sufficient ability to maintain themselves.

A further law already discussed in Chapter One provides that the mother shall have equal authority and right with the father over minor children and over their custody and services and earnings, if she is otherwise qualified, and that if either the father or the mother deserts the child, the rights in the child shall belong to the other.[71]

V. SUPPORT OF POOR BY RELATIVES

The father and grandfather, the mother and grandmother, and the children and grandchildren of every poor, old, blind, lame and impotent person or other poor person unable to work, being of sufficient ability shall at their own charge relieve and maintain every such poor person as the mayor's court for the city, or the court of quarter sessions for the county where such person resides, shall order and direct on pain of forfeiting seven dollars for every month they shall fail therein.[72] The husband and wife, the father, the mother and the children respectively, of every poor person, shall at their own charge, being of sufficient ability, relieve and maintain such poor person at such rate as the

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[69] Act of June 11, 1913, P. L. 468.
[70] Act of June 12, 1913, P. L. 502, Sec. 3.
[71] Act of May 24, 1917, P. L. 268.
[72] Act of May 13, 1925, P. L. 638.

court of quarter sessions of the peace of the county where such poor person resides, shall order and direct on pain of forfeiture a sum not exceeding twenty dollars for every month they shall fail therein.[73]

A husband is liable for the support of the wife's parents, grandparents, children and grandchildren where the husband shall have obtained possession of property of his wife and then only to the extent of such property so acquired by his marriage.[74] This is substantially superseded by the later laws in Pennsylvania which abolishes the husband's property rights in the estate of his wife except as provided under the intestate laws. The court of quarter sessions has jurisdiction over the support of poor persons.[75] If a child of full age neglects without reasonable cause to maintain his or her parents unable to work or of sufficient ability to maintain themselves, an alderman, justice of the peace or magistrate upon information of the parents or any other person, may arrest the child and bind him or her over to the court of quarter sessions. This court after a hearing may order the child being of sufficient ability, to pay such sum as the court shall think reasonable and proper for the comfortable support and maintenance of the parents not exceeding fifty dollars a month and commit the child to the county prison until he or she complies with the order or gives security for compliance. If the defendant removes to another county he may be arrested and brought back. The court may discharge him after three months in prison if satisfied of his inability to comply with the order or give security.[76]

Where there is a support order for the benefit of a husband, wife, father, mother, child, grandfather, grandmother or grandchild, and the order has not been complied with for thirty days, the court upon affidavit or petition shall issue an attachment requiring the arrest of the person who must make payment and has the right to adjudge such person in contempt of court and sentence him to the county jail for a period not exceeding six months.[77]

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[73] Act of March 29, 1803, 4 Sm. L. 50, Sec. 29.
[74] Act of April 6, 1905, P. L. 112, Sec. 4.
[75] Act of March 31, 1812, 5 Sm. L. 391, Sec. 5.
[76] Act of April 15, 1857, P. L. 191.
[77] Act of June 25, 1895, P. L. 269.

Whenever a person is committed* to hard labor, the proceeds at the rate of sixty-five cents a day shall be paid to the person entitled to receive the money under the court order.[78]

VI. RIGHTS OF MARRIED WOMEN

Hereafter a married woman shall have the same right and power as an unmarried person, to acquire, own, possess, control, use, lease, sell or otherwise dispose of any property of any kind, real, personal or mixed and either in possession or expectancy, and may exercise the same right and power in the same manner and to the same extent as an unmarried person, but she may not mortgage or convey her real property unless her husband join in such mortgage or conveyance. A married woman may in the same manner and to the same extent as an unmarried person make any contract in writing or otherwise which is necessary to property conveying or advantageous to the excercise or enjoyment of the rights and powers granted her, but she may not become an accommodation endorser, maker, guarantor or surety for another, and she may not execute or acknowledge a deed or other written instrument conveying or mortgaging her real property unless her husband join in such conveyance.[81]

In any proceeding brought by the husband or wife to protect and recover the separate property of either, both shall be fully competent witnesses except that neither may testify to confidential communications made by one or the other unless this privilege be waived upon the trial.[82]

Except for the rights which the husband and the wife have respectively in the estate of the other after the others death and except for such property as is held by them as tenants by the

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*Note: As was already seen by reference to the laws cited in Chapter I, in the case of children, the jurisdiction over desertion and non-support in Philadelphia and Allegheny Counties is given in Philadelphia County to the Municipal Court,[79] where the child of full age has neglected to maintain his or her parents; and in Allegheny County to the Allegheny County Court.[80]

[78] Act of June 15, 1911, P. L. 973.
[79] Act of May 24, 1917, P. L. 268.
[80] Act of July 17, 1917, P. L. 1015, Sec. 1, subsection A.
[81] Act of April 2, 1913, P. L. 21, Sec. 2, subsection B; see also Act of June 12, 1919, P. L. 455.
[82] Act of June 8, 1893, P. L. 344.

entireties, practically all the old restrictions and disabilities of married women have been removed.

The Nineteenth Amendment to the Constitution of the United States gives them the right to vote. The progress by which this freedom was obtained by women is marked by many statutes. Probably the earliest idea in this respect is represented by the right of a wife to petition the court if she and her husband have lived apart and separate for one year or more and all marital relations between them have ceased and the husband for one year or more has not supported his wife or their child or children, if any, from the time of the separation, and the wife and child if any, are maintained either by the wife or the child or the wife and child or from the income of the wife's separate estate. In such cases[83] the wife may petition the court of common pleas of the county in which she resides to be decreed a feme sole trader and upon decree of court her property, real and personal, however acquired shall be subject to her free and absolute disposal during her life or by will without any liability to be interferred in or obtained by such husband, and in case of intestacy shall go to her next of kin as if he were previously dead.[84] Also included, are cases where the husband and wife reside together under the same roof and the husband has fa ed to support his wife or family for a period of five years or more although there is no desertion.[85]

Another existing line of rights is that by which a married woman is entitled to her separate earnings not subject to any claim of her husband or his creditors.[86]

A woman's rights as against her husband's include primarily the common law obligation on his part to support her. She may sell the land of her absent husband and mortgage it and if she contracts debts for the support of the family, the estate of her absent husband is liable for them.[87]

The property of a married woman whether received before or

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[83] Act of March 27, 1913, P. L. 14.
[84] Act of May 28, 1915, P. L. 639.
[85] Earlier acts are those of May 4, 1855, P. L. 430; and Feb. 22, 1718, 1 Sm. L. 99.
[86] Act of May 28, 1915, P. L. 639, as amended by the Act of May 11,1927, P. L. 971.
[87] Act April 11, 1848, P. L. 536, Sec. 6 and Act June 8, 1893, supra.

during marriage, is not subject to levy and execution for the debts and liabilities of her husband, and it may not be sold, conveyed, mortgaged, transferred or in any manner encumbered without her written consent given voluntarily and of her own free will.[88] The husband, however, is not liable for debts of the wife contracted before marriage. Her property is liable for her own debts and in case the wife commits a wrongful act commonly known as a tort and the injured person secures judgment against the husband, execution shall be first had against the property of the wife.

Wives of lunatic husbands may dispose of their estates,[89] and when the wife becomes insane the husband may manage her estate.[90]

A married woman may convey real estate to her husband as if she were unmarried.[91]

VII. REMEDIES AND LIABILITIES OF MARRIED WOMEN

A wife who is deserted or divorced from the bed and board of her husband, may protect her reputation by an action for slander or libel, and may sue to recover her separate earnings or property even though the husband may be the defendant.[92]

When a divorce from bed and board has been granted to a married woman, she may mortgage or sell her property or any interest therein, in all respects as if she were unmarried and without her husband joining in the deed or other instrument. This shall last only so long as the decree shall remain in force.[93]

A wife who has been deserted, abandoned or thrown from her home by her husband may sue her husband or any one else by herself, and may assign, transfer or endorse over to any person or persons—any mortgage, bond, judgment, promissory note or other evidence of indebtedness against her husband or any other

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[88] Feb. 22, 1718, 1 Sm. L. 99, Sec. 4.
[89] Act of April 11, 1848, P. L. 536, Sec. 6.
[90] Act of May 25, 1878, P. L. 154.
[91] Act of October 8, 1851, P. L. 724, Sec. 7.
[92] Act of June 3, 1911, P. L. 631.
[93] Act of April 11, 1856, P. L. 315, Sec. 3.

person, in the same manner and with like effect as if she were unmarried.[94]

Hereafter a married woman may sue and be sued in all respects and in any form of action and with the same effect, results and consequences as an unmarried person, but she may not sue her husband except in a proceeding for divorce or in a proceeding to protect and recover her separate property; nor may he sue her except in a proceeding for divorce or in a proceeding to protect or recover his separate property; nor may she be arrested or imprisoned for her torts.[95]

A deserted wife may sue at law or in equity her husband for maintenance in the court of common pleas of the county where the desertion occurred or where she is domiciled.[96]

The wife of a deserting husband or an absent husband whose whereabouts are unknown, may proceed against any property of the husband necessary for her suitable maintenance, and the court may direct a seizure, sale or mortgage of the property necessary for the purpose.[97] Where a wife has been deserted, abandoned or thrown from her home by her husband, she may sue her husband in any court as if she were unmarried, but this law does not destroy the right of survivorship in any land heretofore or hereafter conveyed to the husband and wife jointly.[98]

Where debts are contracted for necessaries for the support and maintenance of the family of a married woman, the creditor shall institute suit against the husband and wife and after obtaining a judgment, have execution against the husband alone and if there is no property of the husband then execution may be had against the separate property of the wife, but judgment shall not be rendered against the wife in such action unless it is proved that the debt sued for was contracted by the wife or incurred for articles not necessary for the support of the family.[99]

Where the husband is absent either from desertion or separation, action may be brought against the wife for debts contracted

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[94] Act of April 11, 1927, P. L. 181, No. 151.
[95] Act of June 11, 1879, P. L. 126.
[96] Act of March 27, 1913, P. L. 14.
[97] Act of April 27, 1909, P. L. 182.
[98] Act of April 27, 1909, P. L. 182, as amended by Act July 21, 1913, P. L. 867.
[99] Act of May 1, 1913, P. L. 146.

for necessaries for the support and maintenance of the family and collected out of the wife's estate.[100]

When a husband and wife acquiring property as tenants by entireties, are divorced, either may bring suit to have the property sold and the proceeds divided between them and both are competent witnesses. And where the husband and wife acquire property by the entireties and shall be divorced, the interest of each subsequent to the divorce, shall be conclusively deemed to be one-half of the value of the property. The proceeds of the sale shall be divided equally between them after the payment of debts and if there is a debt against one but not against the other, that person's share shall be reduced by the amount of the lien.[101]

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[100] Act of April 11, 1848, P. L. 536, Sec. 8.
[101] Act of June 12, 1878, P. L. 206. Act of May 10, 1927,P . L. 884.

Chapter VII

LAWS RELATING TO MENTAL PATIENTS AND HABITUAL USERS OF DRUGS OR ALCOHOL

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I. POWERS OF THE DEPARTMENT OF WELFARE OVER MENTAL PATIENTS

The State Department of Welfare has supervision over hospitals for the insane and institutions for feeble-minded, epileptics and inebriates.[1] It is authorized to apply to the proper court for the transfer or removal of insane persons from the state hospital for the insane to almshouse, poorhouse or prisons, and vice versa, from one state hospital to another, or from a licensed private hospital or institution to a state or county hospital, and vice versa; to apply for the removal to the hospital for the insane of any persons imprisoned in a penitentiary or prison and believed to be insane, to order the parole or discharge of any person insane or of unsound mind.[2] The Department also has charge of the care, treatment and removal of insane persons in county hospitals for the insane or private hospitals and institutions.[3]

[1] Act of June 7, 1923, P. L. 498.
[2] *Ibid.*, Sec. 2009.
[3] *Ibid.*, Sec. 2017.

The Department has the power and the duty to demonstrate and enforce the laws relative to the prevention of mental diseases, epilepsy and inebriety, the admission and commitment of mental patients to hospitals for mental diseases and institutions for mental defectives and epilepsy, and the transfer, discharge, escape, interstate rendition and deportation of mental patients.[4]

II. THE MENTAL HEALTH ACT OF 1923

Under this act[5] the Department of Welfare is given jurisdiction over mentally insane and feeble-minded persons, epileptics, inebriates, et cetera, and the hospitals and institutions for their retention, care and treatment.

The terms, "mental illness," "mental disease," and "mental disorder," are defined to mean an illness which so lessens the capacity of the person to use his customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control. The terms shall be construed to include lunacy, unsoundness of mind and insanity.

A mental defective is defined as a person who is not mentally ill, but whose development is so retarded that he has not acquired enough self-control, judgment and discretion to manage himself and his affairs, and for whose own welfare, or that of others, supervision, guidance, care, or control are necessary or advisable. The term shall be construed to include feeble-minded, idiot and imbecile.

A mental patient shall mean any person who is, or is thought to be mentally ill, mentally defective, epileptic or inebriate, or who is or has been the inmate of any hospital, school or place for such persons, or for whom admission thereto is being sought.

All institutions and places for caring for mental patients are listed and a license is required before any persons may establish an institution for this purpose.[6]

The admission and commitment of mental patients to an institution is set forth.[7]

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[4] *Ibid.*, Sec. 2013.
[5] Act of July 11, 1923, P. L. 998.
[6] Act of July 11, 1923, P. L. 998, Art. II, Sec. 201.
[7] *Ibid.*, Art. III, Sec. 301.

1. Voluntary Admission

Any person thought to be mentally ill may make application in writing for admission as a patient to a hospital for mental diseases. The application shall be signed by the applicant in the presence of at least one witness. If the superintendent of the mental hospital is satisfied after application that the applicant needs hospital treatment and will be benefited thereby, and believes that the mental condition of the applicant is such as to render him competent to make application, the superintendent may receive and care for him. The patient shall not be detained more than ten days after he gives notice in writing of his desire to leave, but if the superintendent believes it inadvisable to discharge the patient he shall notify the friends or relatives of the patient, or other persons liable for his support.

2. Application of Relative or Friend with Certificate of Physicians

If application for admission for a mentally ill person is made to a hospital, it must be in writing and made by a relative or friend or the legal guardian of the person, or any other responsible citizen, and be accompanied by the certificate of two qualified physicians that the individual is mentally ill and is in need of care and treatment in a mental hospital. The application shall be in the form prescribed by the Department of Welfare and shall state the name, sex and residence of the patient, the information that the patient is mentally ill and that care in such a hospital is necessary for his benefit, and the facts on which the opinions are based, or any other facts required by the Department. The physicians shall certify their residence, that they have resided in the state for at least three years, that they have been in the actual practice of medicine for at least three years, or have had at least one year's experience as a physician in a hospital for mental patients, that they are not related by blood or marriage to the patient, or to any of the applicants, that they are not connetced in any way with the hospital to which application has been made, that they have examined the patient with care and diligence within one week, and that in their opinion the patient is mentally ill, in need of hospital care, and that the

facts as to the physical and mental condition and the behavior of the person upon which they base their opinion were observed by themselves. The application and certificate shall be sworn to before a judge or magistrate who shall certify to the genuineness of the signatures and to the standing and good repute of the signers. The certificate shall not authorize the admission of the patient unless the patient shall be admitted within two weeks of the date thereof.[8]

3. Court Commitment

The admission to a mental hospital on the order of court, is by order of the Court of Common Pleas, or other court of record of the county in which the person resides, upon a sworn application by any responsible person addressed to the court, or a judge of the courts, accompanied by the certificate of two qualified physicians. The application and certificate shall be as prescribed by the Department, and be executed not more than two weeks before they are presented to the judge. The judge may or may not require the presence of the mental patient before him. A certified copy of the order of the court, or judge, and copies of the application and certificate must accompany the patient to the hospital, and the originals are kept on file in court. The patient must be admitted within two weeks from the date of the order. Once in, he remains until he recovers or is removed, according to law.[9]

The appointment of a commission to inquire into such an application for admission to a hospital is authorized and the commission shall be composed of three persons, two physicians and one lawyer. They shall hear evidence relating to the mental condition of the person as well as his statements and the statements of his counsel, and shall report to the court in writing whether they find the person mentally ill and a proper subject for admission to the hospital, and set forth the facts on which their conclusion is based. The court may then order the person admitted to the hospital and detained there. The court may in its discretion require the presence of the person in court, and the

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[8] Act of July 11, 1923, P. L. 998, Art. III, Sec. 302.
[9] Act of July 11, 1923, P. L. 998, Art. III, Sec. 303.

procedure may be held in any place. If the person refuses to be examined by the commission the court may issue a warrant to bring him before the commission for examination.[10]

4. Temporary Care

The temporary detention of the person for a period not exceeding ten days is accomplished by a written application to the superintendent by the legal guardian, relative or friend of the person, with a certificate of at least one licensed phyisican that immediate temporary care in a hospital for mental diseases is necessary for such person by reason of mental illness. The application and certificate go to the superintendent at the time of admission. If, after admission, the superintendent believes the patient does not require such temporary care he shall discharge the person or notify the person making application to remove the patient, and if the applicant fails to remove the patient the applicant shall be liable to the hospital for the expenses incurred including the care, maintenance and removal. If the superintendent believes that the person requires further care, the applicant shall, before the ten days expire, cause the patient to be duly committed according to law, unless the patient shall have signed the request to remain as a voluntary patient.[11]

5. Emergency Admission

Persons of violent or dangerous mental illness may be received and detained as a patient for a period not exceeding ten days provided the case is certified to be one of violent or dangerous mental illness, or of other emergency, by two qualified physicians.[12] The form of the certificate is the same as that made by a relative or friend.[13] On the request of a physician or any relative, friend, guardian or committee of the patient, a sheriff, constable or police officer shall deliver the patient to the hospital. In such case application must be made within ten days to the court of the county in which the patient is or resides, or was apprehended,

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[10] Act of July 11, 1923, P. L. 998, Sec. 304, as amended by the Act of April 27, 1925, P. L. 337.
[11] Act of July 11, 1923, P. L. 998, Sec. 305.
[12] Act of July 11, 1923, P. L. 998, Sec. 306.
[13] Act of July 11, 1923, P. L. 998, Sec. 302.

for the commitment of said patient.[14] If within ten days no commitment is made, or if the patient is not removed or does not sign a request to remain, the applicant shall be liable for the expenses incurred.

6. Application of Guardian, etc. for Commitment

Commitment of a person on application of the guardian, committee, relative or friend for observation, diagnosis or treatment shall be accompanied by the sworn certificate of two qualified physicians according to the form devised by the Department.[15] The court having satisfied itself of the condition of the person and that such commitment is desirable for his best interests, shall commit him for such period and under such limitations as the court may direct. The superintendent shall report to the judge the patient's mental condition before the expiration of the period of commitment, and the court, if satisfied that the patient is not mentally ill, shall order his discharge, and that the cost of the transportation, commitment, care and treatment be paid by the applicant or by the poor authorities.

7. Insane Prisoners

If persons detained in prison whether waiting trial or undergoing sentence, or detained for any other reason, for instance, as a witness, shall be, in the opinion of the chief executive officer of the institution or other responsible person, insane, or in such condition as to make it necessary that he be cared for in a hospital for mental diseases, the executive officer or other person immediately makes application upon a form prescribed by the Department to a law judge of the court having jurisdiction of the charge against the prisoner for commitment to the proper hospital.[16] The judge shall order inquiry by two qualified physicians or by a commission,[17] and they shall immediately examine the person and make written report to the judge. The report shall follow the form already described and heretofore

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[14] *Ibid.*, Sec. 303.
[15] *Ibid.*, Sec. 307.
[16] Act of July 11, 1923, P. L. 998, Sec. 308.
[17] *Ibid.*, Sec. 304, as amended supra.

referred to.[18] It shall also contain a statement whether in their opinion the prisoner is of criminal tendency. The judge may satisfy himself of the fact and then order the removal of such person to a hospital for mental diseases. If the prisoner is a convict or of criminal tendency he must be removed to a state hospital for insane criminals. Proceedings against such person, if he has been found insane, shall be stayed until his recovery. Upon recovery, he is returned to the prison for the disposal of the charges against him. If he is a convict serving sentence, the time during which he has been in the hospital shall be computed as part of the term. If the sentence of the prisoner expires before his recovery and release from the hospital he may be transferred to any other hospital not for insane criminals. When a person charged with crime is acquitted on the ground of insanity, or having been insane at the time the offense was committed, the jury shall set out this fact in the verdict, and the court may order such person committed to a hospital for mental diseases.

Mental defectives under twenty years of age, their admission to a school for mental defectives and the procedure therefor, are provided by law[19] as particularly set forth in Chapter I.

The Mental Health Act of 1923 also deals with the following:

The discharge of the patients by the Department of Welfare and by order of court.[20]

The discharge by boards and superintendents.[21]

The apprehension and the return of an escaped mental person to the hospital.[22]

The authorization of the Governor to proceed to extradite mental patients escaped to another state or territory and who may be dangerous to the safety of the public; outlining the form of such proceeding.[23]

The discharge of mental patients by lapse of time after a period of twelve continuous months' absence, with or

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[18] *Ibid.*, Secs. 302 and 304.
[19] Act of July 11, 1923, P. L. 998, Sec. 309; Sec. 310 as amended by the Act of April 27, 1925, P. L. 337; and Sec. 311 as amended by the Act of April 27, 1927, P. L. 431.
[20] Act of July 11, 1923, P. L. 998, Art. IV, Secs. 405 and 406.
[21] *Ibid.*, Sec. 404, as amended by Act of April 27, 1927, P. L. 431.
[22] *Ibid.*, Sec. 408.
[23] *Ibid.*, Secs. 409, 410 and 411.

without leave, from the hospital[24] and setting forth how such person must be re-admitted.[25] This law is amended by providing for the establishment of colonies for mental defectives.[26]

The return of non-residents to the place of their local residence,[27] and arbitration of disputed questions in such cases with other states.[28]

The cost of admission, care and discharge of mental patients, providing that they shall be paid, including the expenses of admission, the fees of physicians and all other necessary expenses, from the estate of the patient or by the poor district liable for his support is discussed.[29] The expenses for commitment of persons charged with a crime shall be paid by the county, and the county may recover the expenses from the estate of the person, or the individuals liable for his support, but not from the poor district.

The rights of patients according to law are briefly as follows:[30]

(a) The right to communicate with counsel and commissioner.

(b) To religious freedom, and to be visited by any minister of any denomination.

(c) To be employed at a useful occupation.

(d) In the discretion of the physician in charge, to sell articles he has made and keep or expend the proceeds thereof, or send to his family.[31]

(e) To have writing material and the opportunity in the discretion of the physician, for communicating under seal, with persons outside the institution and such communications shall be stamped and mailed.

(f) To the writ of habeas corpus to try out whether he is properly detained.

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[24] Act of July 11, 1923, P. L. 998, Art. IV, Sec. 412, as amended by Act of April 27, 1927 P. L. 431 Sec. 3.

[25] Act of July II, 1923, P. L. 998, Art. III.

[26] *Ibid.*, Art. IV, Sec. 412, as amended by the Act of April 27, 1927, P. L. 431.

[27] Act of July 11, 1923, P. L. 998, Sec. 413.

[28] *Ibid.*, Sec. 414.

[29] Act of July 11, 1923, P. L. 998, Art. V.

[30] *Ibid.*, Art. VI.

[31] Act of July 11, 1923, P. L. 998, Art. VI, as amended by the Act of April 27, 1925, P. L. 337.

(g) To be discharged as soon as, in the opinion of the medical attendant, he shall be restored to reason and competent to manage his own affairs.

(h) To be visited and examined at all reasonable hours by a medical practitioner designated by him or any member of his family or dear friend, with the sanction of the court.

A female patient may only be committed or removed when accompanied by a member of her family or by a female attendant appointed by persons liable for her support.[32]

Penalties are provided for the violation of the law.[33] The penalty for violating the law relating to institutions and places for mental patients[34] is a fine of not more than one hundred dollars. The penalties for assisting in an escape or an attempt to escape, or the delivery or attempt to deliver alcoholic or narcotic substance to the patient without the knowledge or consent of the physician in charge is a misdemeanor, fine not more than fifty dollars or imprisonment for not more than three months, or both.

If a person proceeds under this law no verdict or judgment shall be entered against him, unless the judge shall certify that there was proof to his satisfaction that the party charged, acted with gross negligence or corruptly, or that he acted without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

III. EPILEPTICS

Persons under twenty-one years of age suffering from epilepsy, may be admitted to and detained in any institution or place for the care of epileptics on written application to the superintendent by the parent, guardian, or other person liable for the support of the epileptic, or upon his own application if twenty-one years of age or over, signed in the presence of at least one witness, if his mental condition is such, in the opinion of the superintendent or attending physician of such institution, as to render him competent. The epileptic person

[32] Act of July 11, 1923, P. L. 998, Sec. 602.
[33] Act of July 11, 1923, P. L. 998, Art. VII.
[34] *Ibid.*, Art. VII, Sec. 70.

must be released after ten days from the time when the parent, guardian or other person gives notice of his desire or intention to remove the epileptic, or when he has given his own written notice to the superintendent of his desire or intention to leave.[35]

Dangerous epileptics may be committed to a hospital for mental disease or to a state institution for epileptics by the order of the Court of Common Pleas, and the form to be followed is similar to that described in Article I, "Admission to a Mental Hospital on the Order of a Court,"[36] but in this case the physicians shall certify that by reason of epilepsy the individual is dangerous to himself or others.[37]

IV. INEBRIATES

Inebriate shall mean a person habitually so addicted to the use of alcoholic or other intoxicating or narcotic substances as to be unable without help, or unwilling to stop the excessive use of such substances. The term shall be held to include dipsomaniac, habitual drunkard, persons addicted to the use of alcoholic drink or intoxicating drugs, persons so habitually addicted to the use of alcoholic drink, absinthe, opium, morphine, chloral or other intoxicating liquor or drug as to be a proper subject for restraint, care and treatment in a hospital or asylum, persons habitually so addicted to the use of alcoholic or narcotic drugs as to be a proper subject for restraint, care and treatment. But for the purposes of this act the term shall mean only those inebriates who, except for their inebriety, are of good character and reputation.

1. Voluntary Admission

An inebriate, who except for his inebriety is of good character and reputation, may be admitted to, and detained in a hospital for mental diseases,[38] or a psychopathic department of a hospital under the procedure in cases of voluntary admission.[39]

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[35] Act of July 11, 1923, P. L. 998, Sec. 312.
[36] Act of July 11, 1923, P. L. 998, Sec. 303.
[37] *Ibid.*, Sec. 314.
[38] *Ibid.*, Sec. 315.
[39] *Ibid.*, Sec. 301.

2. Involuntary Admission by Order of Court

The involuntary admission of an inebriate is provided by an order of court upon petition of at least two citizens who shall be either the wife, husband, parent, child, committee, or next friend of such person. The petition must be accompanied by the sworn certificate of two qualified physicians stating that the person needs such care and treatment, and stating the information upon which the opinion is based. The court then fixes a hearing and may commit to an appropriate hospital, but the consent of the superintendent of such hospital must be obtained. No person under this law may be detained more than a year.[40]

In addition to what has already been said on the subject of inebriates, there is also to be taken into consideration the general law originally relating to drunkards and the proceedings for commitment[41] which makes it lawful where a person is so habitually addicted to the use of alcoholic drink, absinthe, opium, morphine, chloral, or other intoxicating liquor or drug as to be a proper subject for restraint, care and treatment in a hospital or asylum, for at least two persons who are the wife, husband, parent, child or next friends of such person, to apply to the court of quarter sessions requesting the commitment of such person to a proper hospital or asylum for restraint, care and treatment. There must be affidavits by at least two physicians based on the alleged drunkenness of the person, that restraint, care and treatment will be a benefit. The court may commit such alleged drunkard provided the retention shall not be for more than a year and that no commitment shall take place until payment has been made or security given for the proper care, board, treatment and other expenses. If the inebriate is indigent and his family cannot support him, an order shall be made on the county.

Any person restrained, or anyone acting for such person may at any time sue out a writ of habeas corpus to revive the commitment.[42]

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[40] Act of July 11, 1923, P. L. 998, Sec. 316.
[41] Act of May 20, 1921, P. L. 973.
[42] Act of July 11, 1923, P. L. 998, Sec. 317; and Act of May 20, 1921, P. L. 973.

V. APPOINTMENT OF GUARDIAN FOR THE ESTATE OF A MENTAL PATIENT

If any person is insane or feeble-minded or epileptic or so mentally defective that he or she is unable to take care of his or her property and in consequence thereof is liable to dissipate and lose the same or liable to become the victim of designing persons, it shall be lawful for the mother, father, brother, sister, husband, wife, child or next of kin, creditor, debtor, or any other person to petition the court of common pleas for a guardian of the estate. The proceedings of the guardian are under the control of the court of common pleas and at the end of the guardianship, he must file an account.[43]

VI. EMPLOYMENT OF INMATES OF INSTITUTIONS

All inmates of any institution or hospital which is wholly or in part maintained by the State for the care and treatment of the insane, feeble-minded and epileptic persons, may make, manufacture or produce such supplies, manufactured articles, goods and products for said institution or hospital or for the Commonwealth or for any county, city, borough or township thereof or any state institution or any educational or charitable institution receiving aid from the Commonwealth. Supplies and manufactured goods may be sold or exchanged to or with the Commonwealth or any county, city, borough, or township thereof or any state institution or any educational or charitable institution receiving aid from the Commonwealth. The proceeds of the sales of products in the case of state institutions or hospitals, may with the approval of the Department of Welfare, be expended by the Board of Trustees for the payment of salaries, wages or other compensation of employees, the purchase of supplies or equipment or any other expense of any kind or description necessary for the proper conduct of the work.[44]

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[43] Act of May 28, 1907, P. L. 292, as amended by the Act of April 1, 1925, P. L. 101.

[44] Act of May 28, 1907, P. L. 290, as amended by the Act of April 27, 1925, P. L. 307.

VII. EXPENSE OF CARE AND TREATMENT OF INDIGENT INSANE

The indigent insane are the subject of several laws. It is the duty of the Auditor General to make certain reports showing the number of insane persons transferred[45] and the various items of expense for such persons.[46] The expense and the care of the indigent insane are fixed at three dollars per week for each person, including clothing, chargeable to the respective county or poor district.[47] This is only so far as the county is concerned. There is an additional amount from the state in as much more as is necessary up to three dollars in adddition to the three dollars from the county.

VIII. HOSPITALS FOR THE INSANE

The laws establishing hospitals for the insane are of long standing.[48] In addition to providing for the trustees of the institution and the general administrative machinery, special provision is made for the removal of insane persons from the penitentiary and the transfer of incurables back to the penitentiary. In the case of poor persons, the legal settlement of a person shall be certified by the trustees and the poor district thus charged with the expense shall continue to pay for the care. Poor districts may send insane paupers to the hospital.

These early laws also give the manner of determining the fact of insanity and establish the order of preference of admission, giving the indigent insane precedence of the rich.

IX. PERSONS ACCUSED OF CRIME THOUGHT TO BE MENTAL DEFECTIVES

An amendment to the Mental Health Act of 1923 covers this point.[49] When any person is detained in a prison or correctional

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[45] Act of July 18, 1901, P. L. 674, Sec. 2.

[46] Acts of June 26, 1895, P. L. 321; May 13, 1909, P. L. 533; June 25, 1895, P. L. 270; May 23, 1913; P. L. 297; May 6, 1915, P. L. 259; April 26, 1917, P. L. 106; May 18, 1917, P. L. 239.

[47] Act of April 7, 1927, P. L. 157, No. 124.

[48] Acts of March 4, 1841, P. L. 57; April 14, 1845, P. L. 440; May 4, 1852, P. L. 542.

[49] Act of April 27, 1927, P. L. 431.

institution awaiting trial or undergoing sentence, except on conviction for murder in the first degree, who shall in the opinion of a responsible person be thought mentally defective, or when any person charged with a criminal offense and released on bail pending a trial shall be a mental defective in the judgment of any responsible person, the responsible person may apply upon a form prescribed by the Department of Welfare to a law judge having jurisdiction of the charge for an examination and if necessary for a commitment. The judge shall order an inquiry by two qualified physicians or by a commission and may summon witnesses to secure further evidence. He may order commitment to an institution or a transfer from a penal or correctional institution to an institution for mental defectives. If the proceedings have not reached the point where the accused is serving a sentence, the proceeding shall be stayed until his condition becomes such that he can leave the institution. If he is a convict serving a sentence, the time for which he is in the institution for mental defectives shall be computed as part of his sentence. If he was committed before trial to the institution for mental defectives, upon his release he is to be returned to the court having trial or other disposition.

A mental defective who has been arraigned and convicted, or was in custody on a criminal charge prior to his transfer to an institution for mental defectives, shall not be discharged before his sentence actually expires. Mental defectives forty-five years of age and over not having criminal tendencies and no longer required in an institution for mental defectives, may upon recommendation of the superintendent and trustees with the approval of the Department of Welfare be returned to the county to which he or she belongs provided in cases committed by a court, the consent of the court shall be obtained.

X. COLONIES FOR MENTAL DEFECTIVES

The law in 1927 provided for colonies for mental defectives.[50] When the superintendent and the board of trustees of a State institution for mental defectives come to the conclusion that

[50] Act of April 27, 1927, P. L. 431, Sec. 4.

there is a group of patients in such institution of such a character that their interests and the interests of the Commonwealth would be better served through their colonization in a colony outside of such an institution, and if such a colony can be established without damage to private property or detriment to the public welfare and with the approval of the Department of Welfare, there may be established such a colony. The patients may be employed on and about the premises under supervision by residents of the community. The patients shall be paid wages to be determined by the superintendent and trustees and with the approval of the Department of Welfare.

When the patient is discharged, the superintendent shall determine whether there is any balance to the credit of the patient and may either pay it over to him or hold it in trust until such time as it would best serve the interests of the patient to pay it to him or his guardian.

XI. SUPPORT OF INMATES

Every trustee, committee, guardian or other person nominated or appointed to take charge of the estate of an inmate, is responsible for the support of the inmate. Executors or administrators of a deceased inmate, are further required to report to the Attorney General the extent of the estate.[51] The husband, wife, father, mother, child or children of an inmate, who is legally able to do so, shall be liable for his maintenance. The Court of Common Pleas may make and order any of these persons to pay a proper amount of money for the inmate's support.

Note: For laws relating to the use of drugs see Chapter VIII, "Public Health."

[51] Act of May 10, 1921, P. L. 438.

Chapter VIII

LAWS RELATING TO PUBLIC HEALTH AND SAFETY

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A. Public Health

Introduction

It is impossible to include in such a book as this all the laws relating to public health and safety. When one considers the local ordinances for housing, sanitation, etc., etc., in the various cities, boroughs and townships of the State, it is apparent that no effort should be made herein to do more than point out some of the more general rules. For this reason, local ordinances have not been referred to nor has any attention been paid to purely local problems.

1. State-Wide Machinery for Supervision Over Public Health

The laws of the Commonwealth of Pennsylvania with reference to public health and safety are generally under the state-wide control of the Departments of Agriculture, Health and Welfare.

a. Department of Agriculture

The Department of Agriculture has the following duties and powers:—[1]

Animal Industry.

(a) To promote the live stock industry, and to prevent, suppress, control, and eradicate any transmissible diseases of animals and poultry;

(b) To establish and maintain general or special quarantines, as may now or hereafter be provided by law;

(c) To prevent the spread of infectious and communicable diseases of animals and poultry, and, for this purpose, the officers, agents, or employees thereof, may at any time enter any premises where domestic animals or products thereof are kept, confined, or stored; to take such measures as may seem advisable concerning methods of preventing, controlling, and eradicating disease of animals; to cause the disinfection of any premises,

[1] Act of June 7, 1923, P. L. 498, Secs. 1501, 1502, 1503, 1504, 1505, 1506, and 1507.

and, when deemed necessary to prevent the spread of disease, to cause the destruction of animals, poultry, and personal property; and to regulate and prohibit the movement or transportation of animals or poultry into this Commonwealth, or from one place to another within this Commonwealth;

(d) To purchase such supplies and materials as may be deemed necessary;

(e) To provide for the licensing of breeding animals kept for public service, and to prevent fraud and deception in the licensing of stallions kept for public service;

(f) To regulate the manufacture, use, and sale of biolgoical products for use on domestic animals;

(g) To make such examinations and tests as may be deemed necessary to determine the healthfulness of the domestic animals and poultry of the Commonwealth;

(h) To organize and administer a service for the purpose of protecting the public against the use of unwholesome meat or meat food products.

*Plant Industry**

(a) To inspect any nursery, orchard, farm, garden, park, cemetery, or any private or public place which may become infested or infected with harmful insects or plant diseases; to establish and enforce quarantines; to issue and enforce orders and regulations, and make investigations for the control of said pests, wherever they may exist within the Commonwealth; and to perform such other duties relating to "plants" and "plant products" as may seem advisable and not contrary to law:

(b) To inspect apiaries for diseases inimical to bees and beekeeping and enforce the laws relating thereto.

Markets

(a) To investigate the subject of marketing farm products, including the costs of marketing, to publish the results of such investigations, and to furnish advice and assistance to the public with reference to the marketing of farm products within this Commonwealth and all matters relevant thereto;

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* Note: There was adopted in 1927, March 10, 1927, P. L. 27, the Pennsylvania Plant Pest Act.

(b) To gather and diffuse timely information concerning the supply, demand, prevailing prices, and commercial movement of farm products, including quantities in common and cold storage;

(c) To secure, in the performance of the duties herein prescribed, the cooperation and assistance of all other agencies;

(d) To assist and advise in the organization and conduct of public markets, of cooperative and other associations for improving marketing conditions and activities among producers, distributors, and consumers;

(e) To investigate delays, embargoes, conditions, practices, charges, and rates in the transportation and storage of all farm products which appear to be deterimental to a free, economical, and efficient marketing of such products:

(f) To take such lawful steps as may be deemed advisable to prevent waste of perishable products;

(g) To establish standards for the grading and other classification of farm products, as provided in the act, approved the ninth day of July, 1919, P. L. 809, entitled "An act prescribing the powers and duties of the Bureau of Markets in the Department of Agriculture; providing for cooperation with the Bureau of Standards of the Department of Internal Affairs to establish standard receptacles for farm products, and to promulgate regulations for enforcement thereof; and prescribing penalties for the violating of provisions of this act," and in all other respects to enforce the provisions of said act.

Foods

(a) To enforce all the laws of the Commonwealth relating to the production, manufacture, transportation and sale of foods used for man, as well as every article entering into and intended for use as an ingredient in the preparation of foods for man;

(b) For the purpose of enforcing such laws, from time to time, to purchase from wholesale or retail dealers samples of any food or drink and have the same analyzed or examined, and prosecute the sale of adulterated, misbranded, or deleterious foods or drink;

(c) To examine all cold storage warehouses, within the meaning of the laws of this Commonwealth, to ascertain whether they

are kept in a sanitary condition, the wholesomeness of the food therein, and the time within which foods shall have been so kept;

(d) To make such rules and regulations as shall be necessary for the enforcement of the laws of this Commonwealth relating to oleomargarine, food, drink, and cold storage warehouses.

Chemistry

(a) To purchase from wholesale or retail dealers, for the purpose of making chemical analyses, any fertilizers, lime and lime products, feeds, feeding-stuffs, insecticides, fungicides, paints, oils, turpentine, putties or materials or ingredients used in the manufacture or compound of any such fertilizers, lime and lime products, feeds, feeding-stuffs, insecticides, fungicides, paints, oils, turpentine, or putties, and to make examinations and analyses thereof whenever the Secretary of Agriculture shall deem advisable:

(b) To keep correct records of all analyses made of each of the commodities received.

Statistics.

To collect, tabulate, and publish monthly crop and live stock reports, and such other information, from time to time, pertaining to the agricultural industries and interests of the State, and such bulletins and reports as may be deemed advisable.

b. Department of Health

This Department is organized under a series of statutes. There is an Advisory Health Board appointed by the Governor.[2] It has power to advise the Secretary of Health, to make reasonable rules and regulations for the prevention of disease and the protection of the lives and health of the people of the Commonwealth. Copies of the rules and regulations are to be sent to all local boards of health, school boards and by publication in newspapers. These rules, and regulations[3] cover such matters as qualifications of borough and township health officers, notifiable diseases, quarantine and quarantinable diseases, quarantine and periods

[2] Act of June 7, 1923, P. L. 498, Sec. 1811.

[3] Copies of these regulations may be secured from the Dept. of Health, (Harrisburg.)

of quarantine, household contacts in quarantine, termination of quarantine and disinfection, transportation of the infections, such school rules to be observed by undertakers, sextons and other persons, in charge of the preparation for interment, disinterment and other disposition of dead bodies.

The administrative head of the Department is the Commissioner of Health. His powers, duties and qualifications are provided by law.[4]

The Department has issued a pamphlet entitled "Laws of Pennsylvania Relating to Public Health"[5] to which reference should be made for a more detailed discussion of this subject.

The Department of Health shall have the power, and its duty shall be:[6]

(a) To protect the health of the people of this Commonwealth, and to determine and employ the most efficient and practical means for the prevention and suppression of disease;

(b) To purchase such medicines, medical and surgical supplies, and materials as may be necessary to carry on the work of the department;

(c) To cause examination to be made of nuisances or questions affecting the security of life and health in any locality, and for that purpose, without fee or hindrance, to enter, examine, and survey all grounds, vehicles, apartments, buildings, and places within the Commonwealth, and all persons authorized by the department to enter, examine, and survey such grounds, vehicles, apartments, buildings, and places shall have the powers and authority conferred by law upon constables;

(d) To order nuisances, detrimental to the public health or the causes of disease and mortality, to be abated and removed, and to enforce quarantine regulations;

(e) If the owner or occupatnt of any premises, whereon any nuisance detrimental to the public health exists, fails to comply with any order of the department for the abatement or removal thereof, to enter upon the premises to which such order relates and abate or remove such nuisance, as may now or hereafter be provided by law;

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[4] Act of June 7, 1923, P. L. 498.
[5] 1926 Harrisburg.
[6] Act of June 7, 1923, P. L. 498, Secs. 1801 to 1809, inclusive.

(f) For the purpose of collecting or recovering the expense of the abatement or removal of a nuisance, to file a claim or maintain an action in such manner as may now or hereafter be provided by law, against the owner or occupant of the premises upon or from which such nuisance shall have been abated or removed by the department;

(g) To revoke or modify any order, regulation, bylaw, or ordinance of a local board of health concerning a matter which, in the judgment of the department, affects the public health beyond the territory over which such local board has jurisdiction;

(h) To promulgate its rules and regulations by sending printed copies thereof to all local boards of health, school boards, or clerks of councils of cities and boroughs and by printing the same once in at least one daily newspaper of Philadelphia and Pittsburgh, and to print in circular form such rules and regulations and give copies thereof to any person requesting the same; and

(i Whenever, in the opinion of the department, conditions exist in any borough or any township of the first class within the Commonwealth, which constitute a menace to the lives and health of the people living outside the corporate limits of such borough or township, or after it be known to the department that any borough or any township of the first class is without an existing or efficient board of health, to enter and take full charge of and administer the health laws, regulations, and ordinances of, such borough or township, and to continue in charge thereof until the department shall decide that a competent and efficient board of health has been appointed and qualified for such borough or township, and is ready, able, and willing to assume and carry into effect the duties imposed upon it by law, and to collect all expenses incurred by the department in performing its duties hereunder, as may now or hereafter be provided by law;

Housing

(a) To investigate the sanitary condition of tenements, lodging and boarding houses, and, when the same are found to be a menace to those occupying the same or employed therein or to

be overcrowded, to condemn the same, in such manner and subject to such limitations as may now or hereafter be provided by law, and to notify the owners or agents thereof in writing, setting forth the unsanitary or overcrowded condition thereof, specifying the changes or alterations which shall be made thereto for the purpose of relieving such condition, and further specifying the time within which such changes or alterations shall be completed or overcrowding relieved: Provided, That in making inspections as authorized by this section the Department of Health shall cooperate with the Department of Labor and Industry for the purpose of avoiding any duplication of inspection or overlapping of functions.

For the purpose of making investigations authorized by this section, the officers and agents of the department shall at all times have the right of ingress into all tenement, lodging, and boarding houses;

Vital Statistics

(a) To obtain, collect, compile, and preserve all statistics of marriages, deaths, diseases, of practitioners of medicine and surgery, of midwives, nurses, and undertakers, and of all professions whose occupation is deemed to be of importance in obtaining a complete registration of births, deaths, marriages, and diseases, or other vital statistics;

(b) To prepare the necessary methods, forms, and blanks for obtaining and preserving records of registration of births, deaths, marriages, and diseases, and to insure the faithful registration of the same in the townships, boroughs, cities, and counties of the State and in the department;

(c) To see that the laws requiring the registration of births, deaths, marriages, and diseases are uniformly and thoroughly enforced throughout the State, and prompt returns of such registrations made to the department;

(d) With the advice and concurrence of the Advisory Health Board, to make appropriate regulations for the thorough organization and efficiency of the registration of the vital statistics throughout the Commonwealth, and to enforce such regulations;

(e) To issue marriage, birth, and death certificates, and such

burial or removal permits as may now or hereafter be provided by law;

(f) To establish such districts for the registration of vital statistics, and appoint such registrars, deputies, and sub-registrars as may be necessary properly to obtain, collect, compile and preserve the statistics which the department is required to obtain, collect, compile, and preserve. All local registrars, deputies, and sub-registrars, appointed under this section, shall perform such duties as shall be required of them by the department, and shall receive such compensation as may now or hereafter be fixed by law;

Health Districts and Officers

In order to enable it more efficiently to manage the sanitary affairs of the Commonwealth, to apportion the Commonwealth into such number of health districts as the department, with the approval of the Governor, shall decide, and in each district to appoint a health officer who shall, under the direction of the department, have supervision and control of the sanitary affairs of the district;

Quarantines

(a) With the approval and concurrence of the Advisory Health Board, to declare certain diseases to be communicable in addition to those by law declared so to be, and to establish such regulations for the prevention of the spread of such diseases as the department and the Advisory Health Board shall deem necessary and appropriate;

(b) To establish and enforce quarantines in such manner, for such period, and with such powers, as may now or hereafter be provided by law, to prevent the spread of diseases declared by law or by the department to be communicable diseases;

(c) To administer and enforce the laws of this commonwealth with regard to vaccination and other means of preventing the spread of communicable diseases;

Tuberculosis Sanatoria

(a) To maintain sanatoria or colonies for the reception and treatment of indigent persons affected with tuberculosis, and for that purpose to acquire property, erect buildings, equip the

same, and do all other things necessary to accomplish such work, as may now or hereafter be provided by law:

See Act of May 14, 1925, P. L. 749, No. 408. An act providing for the establishment and maintenance of a State institution for the care and treatment of indigent children and others afflicted with surgical tuberculosis and allied conditions and making an appropriation.

See also Act of April 13, 1927, P. L. 207, Section 60, which provides that the Department of Health shall have the power and its duties shall be to manage and control the State Hospital for crippled children at Elizabethtown. The Department shall have full control over the admission of patients to and their discharge from the State Hospital.

Narcotic Drugs

To supervise the enforcement of and administer the act, approved July 11, 1917, P. L. 758, entitled "An act for the protection of the public health by regulating the possession, control, dealing in, giving away, delivery, dispensing, administering, prescribing, and use of certain drugs, and keeping records thereof; by regulating the use of drugs in the treatment of the drug habit; by providing for the revocation and suspension of licenses of physicians, dentists, veterinarians, pharmacists, druggists, and registered nurses for certain causes, and by providing for the enforcement of this act, and penalties;"

Water Pollution

(a) To act as the enforcement agent for the Sanitary Water Board created by this act. The Department shall make such inspections, conduct such investigations, and do such other acts as the Sanitary Water Board shall from time to time direct; but the department shall, in the exercise of its powers and the performance of its duties hereunder, be subject at all times to the rules and regulations, orders, and directions of the Sanitary Water Board; Provided, however, That between sessions of the board, the department shall have the power to issue such orders and take such action, within the powers of the board, as the circumstances may require; but any order so issued and any action so taken may be rescinded or revoked by the board at its next session;

(b) To issue water works permits and stipulate therein the conditions under which water may be supplied to the public, and to administer sections 1, 2, and 3 of the act of April 22, 1905, P. L. 260, entitled "An Act to preserve the purity of the waters of the State for the protection of the public health."

For the purpose of aiding in this work the Sanitary Water Board, and Advisory Health Board and the Anatomical Board are established.

c. Department of Welfare

In connection with public health, the work of the Department of Welfare, has already been described in Chapter 7, herein, on the subject of Mental Health, Users of Drugs and Habitual Drunkards.

The Department of Health is charged with particular responsibilities in connection with certain matters. Laws relating to Health Departments in cities of the first and second classes are too numerous to be referred to here. Information should be sought direct from the department of the city.

As to cities of the third class permission is given to enact ordinances to construct sewers, regulate bathing in rivers and public waters, regulate the running at large of animals, regulate the enforcement of laws relating to the control of communicable diseases and to secure the health of the inhabitants.[7]

Cities of the third class may also create a board of health the powers and duties of which are prescribed by several laws.[8]

In Boroughs and first class townships provision is made for a board of health[9] the powers and duties of this board are set forth in the Act.[10] Similar provisions are made for counties.[11]

Other matters referred to by the laws relating to health are the subjects of Burial Grounds and their regulation. These are the

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[7] Art. V, Act of June 27, 1913, P. L. 568 as amended by Act of May 27, 1919, P. L. 310.

[8] See Act of 1919 P. L. 310, Act of May 23, 1889 P. L. 277, Act of June 7, 1901 P. L. 493 as amended by Act of June 13, 1913 P. L. 476.

[9] Act of June 12, 1913, P. L. 471, also Act of April 14, 1915, P. L. 114.

[10] Act of May 14, 1915, P. L. 312, Chap. 5, Art. I.

[11] Act of March 17, 1925, P. L. 34, No. 21. Act of April 10, 1925, P. L. 223.

subject of several statutes.[12] Dead bodies and the Anatomical Board are also under the law.[13] Mausoleums may not be erected except under the supervision of the State Department of Health.[14]

Bone-boiling establishments are regulated;[15] night soil may not be used as fertilizers.[16] Spitting on public walks, floors and other public places is prohibited under penalty of a fine of one dollar and costs.[17] Public eating places are protected[18] under penalty of a fine.[19] Sewage is under the control of the Sanitary Water Board.[20]

2. Laws Relating to the Regulation, Manufacture and Sale of Drugs

a. Drugs

The department of Health has the responsibility in connection with drugs of administering the law.[21]

Drugs are defined as opium or coca leaves or any compound or derivative of opium or coca leaves or any substance or preparation containing any compounds or derivative of opium or coca leaves. It provides that drugs as thus defined may not be sold, dispensed, distributed or given away to or for the use of any known habitual user of drugs, or any child of twelve years of age or under, except in pursuance of a prescription of a duly licensed physician or dentist.[22] The sale and distribution and prescription of drugs to habitual users by physicians or dentists for the cure or treatment of some other malady of the drug habit, is provided

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[12] Act of May 13, 1876, P. L. 159, Repealed by Chap. XIII, Art. I, Act of May 14, 1915, P. L. 312.
See also Act of May 14, 1915, P. L. 312, Chap. XI, Burial Grounds.
Act of May 24, 1917, P. L. 292.
[13] Act of June 7, 1923, P. L. 498, Art. IV, Sec. 434.
Act of April 20, 1921, P. L. 167.
Act of June 13, 1883, P. L. 119.
[14] Act of June 23, 1917, P. L. 637.
[15] Act of May 19, 1897, P. L. 77.
[16] Act of May 20, 1913, P. L. 240.
[17] Act of May 11, 1909, P. L. 516.
[18] Act of May 5, 1921, P. L. 347.
[19] Act of May 28, 1915, P. L. 642.
[20] Act of May 14, 1915, P. L. 312.
Act of May 7, 1925, P. L. 555.
[21] Act of July 11, 1917, P. L. 758 as amended by the Act of April 20, 1921 P. L. 152.
[22] Act of April 20, 1921, P. L. 152, Sec. 1.

for.[23] If the physician desires to undertake in good faith the cure of the habit by the taking or use of opium, it may be done but the physician must make an examination of the patient and report to the State Department of Health, the fact of the treatment and at its conclusion, the result. If the information contained in such report is divulged except to a person entitled to the information there is a fine not exceeding one thousand dollars or imprisonment not exceeding one year, or both. The act does not apply to treatment of habitual users of drugs in public hospitals, etc.

Provision is made for the confiscation of drugs offered in evidence in the trial of any case involving illegal sale or possession.[24]

The term drug is defined as including all medicines recognized in the ninth revision of the Pharmacopoeia of the United States, the fourth edition of the National Formulary or the American Homeopathic Pharmacopoeia for internal or external use.[25]

The sale or giving away of certain specific drugs including cocaine or its salts, derivatives or its compounds, and alpha or beta eucaine either wholesale or retail, is restricted.[26] A violation of this act calls for a fine of not more than five hundred dollars and imprisonment of not more than six months or both.

The punishment for violations of the act of 1917[27] is a fine not exceeding two thousand dollars or imprisonment not exceeding five years, or both.

The penalty for the sale of unregistered poisons is a fine of not more than one hundred dollars.[28]

Habitual users of drugs are cared for as inebriates in the Mental Health Act of 1923. See Chapter 7.

b. Druggists

The general subject of druggists and their qualifications is governed by the act of 1917 as amended by the act of 1921.[29]

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[23] *Ibid.*, Sec. 2.
[24] Act of May 20, 1921, P. L. 939, No. 328.
[25] Act of June 7, 1917, P. L. 564.
[26] Act of May 8, 1909, P. L. 487.
[27] Act of July 11, 1917, P. L. 758. This act is amended by the act of April 20, 1921, P. L. 152, so the same penalties are effective under the act of 1921.
[28] Act of May 17, 1917, P. L. 208, Sec. 17.
[29] Act of May 17, 1917, P. L. 208, as amended by the Act of May 16, 1921, P. L. 6 ;13 also acts of May 26, 1921, P. L. 1172, and April 20, 1921, P. L. 152.

A "pharmacy" is defined as a retail drug store, or any place where drugs, medicine, or poisons are compounded, dispensed, prepared, or sold at retail. A "pharmacist" is defined as any one who is properly registered as a pharmacist.

A Board of Pharmacy is established consisting of five persons who shall have general control of the subject.

Druggists are required to apply for a certificate and the law provides the qualifications.[30] It further provides examination and registration fees. The penalty for selling drugs at retail or compounding prescriptions or conducting a pharmacy,—except after compliance with this act, shall be a fine of not less than fifty dollars nor more than five hundred dollars, or imprisonment for not more than one year. It is unlawful for any unregistered person to have charge of a pharmacy; penalty a fine of not more than one hundred dollars.

The act of 1917, supra, is further revised by the act of 1925[31] which makes additional requirements as to the qualifications of applicants for registration as pharmacists and assistant pharmacists. The matter of apprentices to the business, is also controlled by law.[32]

In conducting the drug business, the pharmacist must exhibit the certificates in a conspicuous place, must keep in each pharmacy a copy of the latest revision of the United States Pharmacopoeia, and the latest edition of the National Formulary. Prescriptions of physicians shall be kept on file for at least five years so as to be open for inspection.

Pharmacies and drug stores shall be owned only by licensed pharmacists and no corporation, association or co-partnership shall own a drug store unless all the partners or members are licensed pharmacists, except when such corporation is authorized by its charter to own and conduct pharmacies.[33]

Adulteration of drugs is prohibited; punishable by a fine not exceeding five hundred dollars and forfeiture of the drugs to the Commonwealth.[34] The law specifically declares when a drug is

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[30] Act of June 4, 1919, P. L. 391.
[31] Act of April 27, 1925, P. L. 296.
[32] Act of April 27, 1925, P. L. 299.
[33] Act of May 13, 1927, P. L. 1009.
[34] Act of May 24, 1887, P. L. 189, Sec. 9.

adulterated and when an article is misbranded.[35] There are also other acts dealing with the regulation and sale of drugs.[36]

3. Laws Relating to Food, Liquors, and Water Supplies

a. Food

The general laws[37] relating to this subject come under the head of adulteration or misbranding of food. The particular articles which have been the subject of this sort of law may be listed briefly as follows:

Ice cream, chicory and coffee, meat, poultry, game and fish, eggs, lard, fruit syrups and non-alcoholic drinks.

The manufacture, sale or possession of any food which is adulterated or misbranded is unlawful. The act is specific as to what adulteration means and what misbranding means and provides for the prosecution of the offender. The penalty is a fine of not less than sixty dollars nor more than one hundred dollars. The administration of the act is under the control of the Dairy and Food Commissioner.

An earlier act of 1903[38] prohibits the sale of food containing formaline, formaldehyde, sodium fluoride or any article of vegetable food containing on analysis more than one-fiftieth of one per centum of copper; fine not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days.

Later laws provide penalties for the adulteration or misbranding of special articles of food such as ice cream,[39] the sale of chicory mixed with coffee,[40] the sale or consignment or having possession of to sell as fresh any meat, poultry, game, or shell fish which contain any substances possessing a preservative

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[35] Act of May 8, 1909, P. L. 470, and Act of June 7, 1917, P. L. 564, as amended by the Act of April 27, 1927, P. L. 458.

[36] Acts of May 8, 1909, P. L. 470; and Act of July 11, 1917, P. L. 758.

[37] Act of May 13, 1909, P. L. 520.

[38] Act of April 27, 1903, P. L. 324.

[39] Act of March 24, 1909, P. L. 63, Act of March 20, 1923, P. L. 23, No. 18, Sec. 2.

[40] Act of May 15, 1915, P. L. 247.

character or action,[41] sausage,[42] eggs that are sold as fresh when they are not,[43] lard substitutes may be sold only when they are so marked,[44] fruit syrups,[45] non-alcoholic drinks,[46] and methyl or wood alcohol.[47]

b. Liquors

In addition to the federal law which is known as the Volstead Law passed in connection with the Eighteenth Amendment to the Constitution of the United States, there are various State laws in Pennsylvania dealing with the manufacture and sale of liquor. The present law in Pennsylvania is set forth largely in the act of 1923,[48] which defines intoxicating liquor, prohibits the manufacture, sale, barter, transportation, furnishing, possession, delivery within, importation or exportation of any intoxicating liquor for beverage purposes, except it does not prohibit the alcoholic contents of malt or brewed liquors from exceeding one-half of one per cent during the process of manufacture only, and except the manufacture of non-intoxicating cider and fruit juices for use in a private dwelling. It is not unlawful, however, to possess, intoxicating liquors in one's bona fide dwelling while the same is occupied and established as the owners dwelling provided such liquor was lawfully acquired prior to the passage of the act and is for use only for the personal consumption of the owner and his family and of his bona fide guests when entertained by him, which entertainment shall not be deemed an unlawful furnishing. It is unlawful to advertise, manufacture, sell, offer for sale, or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, capsule, confection, substance, formula, direction, or receipt, designed or intended, for use in the unlawful manufacture of intoxicating liquor.

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[41] Act of March 28, 1905, P. L. 64.
[42] Act of April 6, 1911, P. L. 51, as amended by the Act of July 10, 1919, P. L. 899.
[43] Act of July 10, 1919, P. L. 900.
[44] Act of March 11, 1909, P. L. 17.
[45] Act of March 3, 1925, P. L. 10, Sec. 6.
[46] Act of March 11, 1909, P. L. 15, as amended by the Act of May 25, 1921, P. L. 1116, No. 412.
[47] Act of July 17, 1919, P. L. 1031.
[48] Act of March 27, 1923, P. L. 34.

Rooms, houses, buildings, boats, vehicles, structures or places wherein intoxicating liquor is manufactured, sold, offered for sale or possessed in violation of the act and all the liquor, are declared to be common nuisances. Proceess may be had by injunction to abate such nuisances and search warrants may be issued. Any officer may seize any vehicle transporting liquor in violation of the act when it is transported contrary to law, no warrant is necessary in such cases. Intoxicating liquor or property intended for use in violating the provisions of the act, which has been so used, shall be deemed contraband and forfeited to the Commonwealth.

c. Milk and Milk Supplies

Milk from diseased animals shall not be used as food until after it has been pasteurized. Separators of a creamery, cheese factory, receiving station or skimming station, shall before delivering the milk, cause it to be thoroughly pasteurized.[49] Standards are set for milk, cream,[50] condensed and evaporated milk[51] and punishments fixed for violations of these standards.[52] Misbranding is also punishable. Milk may be sold at retail only in the original container[53] and not from bulk.

The furnishing of impure milk to butter factories[54] or adding coloring matter to milk[55] is unlawful.

The matter was again brought up before the legislature in 1923[56] and this law defines the minimum standard of milk, prohibits the sale of condensed, evaporated or concentrated milk not conforming to the minimum standard; the sale of milk, cream or skimmed milk to which has been added, blended, or compounded any fats or oils other than milk fats with the exception that chocolate may be used as a flavoring.

The manufacture, sale or exchange of condensed, or evaporated milk in sealed cans or receptacles, is regulated.[57]

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[49] Act of July 22, 1913, P. L. 928, Sec. 32 and 33.
[50] Act of June 8, 1911, P. L. 712.
[51] Act of March 21, 1923, P. L. 28.
[52] Act of June 2, 1915, P. L. 735.
[53] Act of March 26, 1925, P. L. 83.
[54] Act of June 10, 1881, P. L. 116.
[55] Act of April 19, 1901, P. L. 85, amending the Act of June 10, 1897, P. L. 142.
[56] Act of March 21, 1923, P. L. 28.
[57] Act of June 29, 1923, P. L. 929.

Persons who deal in milk and cream are subject to regulation and control,[58] and provision is made for the permits required by creameries, shipping stations, and milk and cheese factories, and the statements from time to time as to the milk and certain tests including the Standard Babcock Testing Apparatus.

Milk cans must be cleansed before shipment and there is a penalty for failure to do so.[59]

d. Water and Water Supplies

The protection of the public water supply is under the general supervision of the Advisory Board of the Department of Health.[60] This organization is designed to adopt and promulgate reasonable orders and regulations for the protection of any source of water approved by the Commissioner of Health for the present or future supply to the public and prohibit the pollution and contamination of any such source of water so approved rendering same inimical to the public health or objectionable for public water supply purposes. Certain exceptions are made in the case of pollution by industrial waste and by water pumped or flowing from coal mines.

A Water Supply Commission is established[61] and it grants the limited water supply permits and controls public service companies holding power and water supply permits.[62]

A later law established the Water and Power Resources Board and the Sanitary Water Board.[63]

e. Control of Nuisances

The subject of nuisances is an extensive one under the Department of Health including such matters as bone-boiling establishments, buildings for immoral purposes, burial grounds, causing or permitting filth to be collected around a dwelling, committing annoyances, distributing samples of candies and medicines;

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[58] Acts of May 23, 1919, P. L. 275, and June 28, 1923, P. L. 900.
[59] Act of May 25, 1907, P. L. 233.
[60] Act of June 14, 1923, P. L. 793.
[61] Act of June 14, 1923, P. L. 704.
[62] Act of June 14, 1923, P. L. 700; also Act of April 1, 1925, P. L. 113, and Act of April 6, 1925, P. L. 156, No. 114; Act of April 8, 1925, P. L. 214; Act of March 23, 1925, P. L. 64; Act of June 7, 1923, P. L. 498 which is amended by the administrative code of 1927 (Act of April 13, 1927, P. L. 207).
[63] Act of April 13, 1927, P. L. 207; also the Act of May 5, 1927, P. L. 772.

keeping houses where liquors are sold unlawfully, infected trees and plants; keeping gambling devices or lotteries, obstructing the roads, and other similar matters. The law relating to cities, boroughs, townships, contains special reference to matters of this kind but it seems unwise to devote more space to a subject which is largely governed by local regulations and ordinances.

It lies generally within the power of the legislature to declare a specific act a nuisance and one of the most telling portions of the Volstead and similar acts, is the fact that the legislature has declared the manufacture and sale and transportation of liquor to be a nuisance, thus giving the court of equity, power over it.

f. Sewerage Disposal

The subject of water works and sewer systems is considered by the act of 1905[64] which provides the permit for the right to operate water works and indicates that public waters shall not be polluted by sewage. It defines sewage for the purposes of the act as any substance that contains any of the waste products, or excrementitious or other discharges from the bodies of human beings or animals. Provision is made for a permit for the discharge of sewage from any sewer system into any of the waters of the State. The conditions under which the permit may be effective are also in the discretion of the health authorities.

Again as in the case of public waters, the matters covered by this subject of sewerage are largely under the control of local regulations or ordinances and it seems undesirable to attempt any further statement.

It is made unlawful to discharge on or within the limits of any public highway sewage or drainage except surface drainage.[65]

The matter of sewers in the various cities, townships and boroughs is largely of local application.

4. Laws Relating to the Medical Profession, Hospitals and Sanatoria

a. The Medical Profession

The practice of medicine and surgery is prohibited except to persons holding a license.[66] The Bureau of Medical Education

[64] Act of April 22, 1905, P. L. 260.
[65] Act of May 7, 1925, P. L. 555.
[66] Act of June 3, 1911, P. L. 639.

and Licensure of the Department of Public Instruction in Pennsylvania is established by the act of 1921.[67] This organization has under its general control, the matter of investigating the character of instruction and the facilities possessed by medical educational institutions and hospitals desiring interns. The act provides the qualifications for an applicant for a license. It also gives the right to refuse a license for any or all of the following reasons: the conviction of a crime involving moral turpitude, habitual intemperance in the use of ardent spirits or stimulants, narcotics, or any other substance, or any condition which impairs intellect and judgment to such an extent as to incapacitate for the performance of professional duties.[68] This portion of the law does not affect the practice of pharmacy, dentistry or osteopathy.

The Bureau of Licensure may refuse to grant a license upon presentation of a court record showing the conviction in due course of law, of the applicant for producing, or aiding or abetting in producing, a criminal abortion or miscarriage, by any means whatsoever; and in the case of a practicing physician remove his name from the record of licensed physicians.

b. Special Branches of the Medical Profession

1. *Osteopaths*

There is a State board of Osteopathic Examiners who control the issuance of licenses of candidates to practice osteopathy, prescribing the qualifications necessary.[69] This authorizes the holder to practice osteopathy including minor surgery and obstetrics, without restriction, but it does not authorize the practice of operative surgery without an additional license. The statute defines osteopathy. In order to secure a license to practice operative surgery the applicant must be approved by the Osteopathic Surgeons' Examining Board established by the same act.

Osteopathic physicians and surgeons are required to observe the state and municipal health regulations relating to the control of contagious diseases, the reporting and certifying of births and

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[67] Act of April 20, 1921, P. L. 158.
[68] Act of June 14, 1923, P. L. 758.
[69] Act of June 14, 1923, P. L. 795.

deaths and all matters pertaining to public health the same as other physicians. The license may be revoked upon substantial evidence the same as in the case of other physicians.[70] A further law[71] with reference to this matter provides that all persons qualified and engaged in the practice of osteopathy, must register with the State Board of Osteopathic Examiners annually on or before the first day of January of each succeeding year. The act provides the penalty for practicing without a license; fine not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for thirty days nor more than ninety days for each offense.[72] The failure to register as required is made the subject of a fine not exceeding twenty-five dollars for the first offense and fifty dollars for the second offense.[73]

2. *Dental Surgeons and Dental Hygienists*

The dental surgeons are organized under the supervision of the State Dental Council and Examining Board,[74] which supervises and provides rules for the examination of applicants for a license to practice dentistry and to keep records. It may refuse or revoke a license if the accused is guilty of malpractice or violating the dental laws of this Commonwealth, or shall be addicted to the use of narcotic drugs.[75] The Board of Dental Examiners may make all necessary rules and regulations concerning the transaction of business and hold meetings for the examining of applicants for licenses. The terms of this examination are set forth.

A dentist must display his license and practicing without a license is the subject of a fine of not less than fifty dollars nor more than five hundred dollars, or imprisonment not exceeding six months. Practice of dentistry is defined; and circulating or advertising fraudulent or misleading statements as to the skill of the operator or quality of the material used or methods practiced, is prohibited.

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[70] Act of March 19, 1909, P. L. 46; and Act of April 28, 1915, P. L. 195.
[71] Act of April 4, 1925, P. L. 142.
[72] Act of April 6, 1927, P. L. 124.
[73] Act of April 6, 1927, P. L. 124.
[74] Act of May 5, 1921, P. L. 399.
[75] Act of May 31, 1923, P. L. 480, No. 265.

Dental hygienists are provided for as assistants to dentists.[76] The law specifies the service which a dental hygienist may perform and provides for the revocation of a dentist's license who permits unauthorized work to be done by a hygienist. The Bureau of Professional Education and the Dental Council of Pennsylvania, have charge of dental hygienists and registering them. Practicing without a license is subject to a peanlty the same as that for practicing dentistry without a license.

c. Nurses and Nursing

Nurses are under the general supervision of the State Board of Examiners for registration.[77] This organization fixes the qualifications for registration and provides for certificates and licenses. A penalty is imposed for violating the law, of not less than fifty dollars nor more than two hundred dollars. The most recent law on the subject sets forth in greater detail the qualifications for registration both of nurses and licensed attendants,[78] and authorizes the Board of Examiners to prepare and make available for public distribution lists of training schools approved by it. A person who has a valid certificate of registration and who has a certificate of record for the current year, may practice as such and use the title registered nurse or licensed attendant. This does not prevent other persons nursing gratuitously or for hire. If any one holds himself out as registered nurse or licensed attendant without a certificate of record, it is an offense subject to a fine of not less than ten dollars or more than one hundred dollars, or imprisonment not exceeding ten days. If any person practices as a registered nurse or licensed attendant or assumes the use of the titles without a valid certificate of registration, it is a misdemeanor subject to a fine of not less than fifty dollars nor more than two hundred dollars or imprisonment not exceeding thirty days. The Board may revoke, suspend or restore any certificate of registration for cause.

d. Hospitals

The basic law with reference to hospitals is that of 1874.[79]

[76] Act of March 19, 1921, P. L. 40.
[77] Act of May 23, 1923, P. L. 351, No. 224.
[78] Act of May 13, 1927, P. L. 988.
[79] Act of May 21, 1874, P. L. 220.

It provides for the incorporation of hospitals, declares that they shall be open for the reception of sick and injured persons of Pennsylvania without regard to creed, sex or race. The act does not apply to hospitals which have an endowment exceeding five thousand dollars a year. It does, however, make it necessary for the hospital to receive sick or injured persons who are indigent, to give them proper medical or surgical treatment. The proper poor district is held responsible for the payment of the expenses.

The matter of incorporating hospitals is further affected by the act of 1917.[80] This provides that the application must be approved by the Board of Public Charities, now the Department of Welfare.

A later act[81] provides for the transfer, lease or sale of State owned hospitals to incorporated hospital associations. Two or more counties may join in establishing contagious disease hospitals.[82] Citizens may petition the county commissioners for the establishment of county hospitals for the care of tuberculosis.

The identification of individuals born in maternity hospitals is provided for by taking the finger or footprints of the individuals and filing the records.[83]

e. Sanatoria

The subject of sanatoria is one which usually covers matters having to do with the specific organization.

5. Quarantine Laws and Personal Hygiene

a. Diseases in General

Schools are required to keep a record of children excluded on account of regulations of the Department of Health and local health authorities. Local townships, boroughs, and cities may establish additional health and quarantine regulations.

Removing, defacing or destroying placards relating to quarantine is subject to a fine of not more than one hundred dollars and imprisonment of not less than ten nor more than thirty

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[80] Act of July 19, 1917, P. L. 1120.
[81] Act of June 7, 1923, P. L. 681.
[82] Act of May 24, 1917, P. L. 297, amended by the Act of Feb. 25, 1925, P. L.3.
[83] Act of April 29, 1925, P. L. 358.

days. Any person other than the attending physician or nurse, who shall enter or leave any quarantined premises without permission from the health authorities or who shall violate any of the quarantine restrictions, shall be sentenced to a fine of not more than one hundred dollars and imprisonment of not less than ten or more than thirty days.

Any physician, undertaker, nurse, superintendent, sexton, teacher, parent or guardian or other person who does not comply with or violates the regulations of the Department of Health, is similarly to be punished.[84]

b. Venereal Diseases

The law provides that it is unlawful for any person to publish or advertise any treatment or cure for venereal diseases; the penalty is a fine of not less than five hundred dollars nor more than one thousand dollars and imprisonment not exceeding one year.[85]

Hotels and restaurants are prohibited from employing persons suffering from venereal diseases, trachoma, tuberculosis, cancer or barbers' itch and the same law applies to dining cars and other public drinking and eating places. The employer is required to secure a certificate from a reputable doctor of medicine certifying that the employee is free from these diseases. The same law prohibits the use of unclean and unsanitary dishes and utensils and regulates the use of towels and wash-rooms and common drinking vessels.[86] Persons convicted of crime or pending trial and confined in jail, shall be examined for and if infected, treated for venereal diseases.[87] Money received from the United States government for the prevention, control and treatment of venereal diseases is regulated.[88] There is no quarantine to be established in the case of persons suffering from venereal diseases but this does not prevent the quarantine of persons known to be prostitutes and reasonably suspected of suffering from venereal

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[84] Act of June 28, 1923, P. L. 888, as amended by the Act of March 24, 1927, P. L. 60.
[85] Act of April 21, 1921, P. L. 242, No. 123.
[86] Act of April 27, 1927, P. L. 437.
[87] Act of April 26, 1921, P. L. 299, No. 150.
[88] Act of March 31, 1921, P. L. 88.

diseases.[89] Special provision is made for the reception and treatment of insane persons who are afflicted with syphilis.[90] (See Chapter 7).

c. Vital Statistics

There is established a central bureau of vital statistics of the State Department of Health.[91] This organization is responsible for gathering vital statistics as to births, deaths, marriages and diseases. The State for the purposes of gathering these statistics is divided into registrative districts in each of which there is a local registrar. Permits for burial shall be issued by these local registrars upon the presentation of a certificate of death. There shall be a registration of still born children both as births and deaths. The law specifically outlines the details of the contents and form of the certificate of death and indicates the procedure in the case death occurs without medical attendance. In this case, it is the duty of the undertaker to notify the registrar, and if the circumstances render it probable that the death was caused by unlawful or suspicious means, the registrar shall refer the case to the coroner for investigation. The duties of the undertaker or person acting as undertaker, are outlined and the wording of the burial permit. Sextons or persons in charge of cemeteries shall not permit interment unless the body is accompanied by a burial, removal or transit permit from the local registrar.

In the same way there is to be a registration of births to which shall be attached the certificate of the physician or mid-wife of if there be neither, then the father or mother of the child or householder of the premises, manager or superintendent of the institution in which the birth occurred.

The law prescribes the contents and form of the birth certificate and provides for the registration of a child who has not yet been named.[92] Physicians, mid-wives and undertakers are required to register their names, addresses and occupation with the local registrar. Records for the sake of vital statistics are

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[89] Act June 28, 1923, P. L. 888, Sec. 2.
[90] Act May 16, 1921, P. L. 636.
[91] Act of April 20, 1921, P. L. 181; also Act of June 7, 1915, P. L. 900.
[92] Act of April 20, 1921, P. L. 181.

to be kept by hospitals and almshouses. The form of the certificates is prepared by the State registrar. Specific penalties are provided for the violation of this law.

The act of 1927[93] provides for the fee for the certificate for birth or death; soldiers, sailors, marines and nurses receive certified copies without fee.[94]

B. Public Safety

The general subjects under this head are many in number. Some of them will be found under "Labor Regulations" and many of them will not be discussed at all because of the space that would be required. In general, much of the law relating to public safety is a matter of local statutes and ordinances which have no place in this compilation. A few brief references will be made to specific laws regarding the following subjects.

1. Police

The functions of the police are to maintain public peace and good order, to detect crime and its perpetrators, to arrest and prosecute persons accused of public offenses, to keep such record of offenders as may facilitate the detection of the perpetrators of future offenses and assist in the proper disposition of the habitual criminal. The first function referred to takes up most of the time and attention of the police.

There are two types of police—those who are under control of the State and those who are under control of the city. The corresponding county officer is the constable whose functions are briefly alluded to in the chapter on criminal procedure (Chapter 3). There are laws which permit the governor or another officer to appoint special police particularly in relation to railway companies, collieries, furnaces, rolling mills, passenger railways, agricultural estates, camp meeting associations, charitable associations,[95] corporations organized for the preservation and propagation of fish, and corporations formed for the prevention of cruelty to children.[96]

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[93] Act of May 7, 1927, P. L. 857, No. 434.
[94] Act of April 28, 1927, P. L. 498.
[95] Act of June 25, 1885, P. L. 167.
[96] Act of May 25, 1887, P. L. 265.

a. State Police

The State police force exists under the authority of the Act of 1923.[97] Its duties are to assist the governor in the administration and enforcement of the laws; with the approval of the governor, to assist any administrative department, board or commission to enforce the laws applicable to such department or organization; whenever possible, to cooperate with counties and municipalities in the detection of crime, the apprehension of criminals and the preservation of law and order throughout the State; to aid in the enforcement of all laws relating to game, fish, forest, and waters; and to collect and classify and keep at all times available complete information useful for the detection of crime and apprehension of criminals.

The executive officer of the police is the superintendent who shall provide uniforms, equipment and make such rules and regulations as are necessary to control the force. He shall establish local headquarters in various parts of the State.

The individual members of the police force are authorized and empowered to make arrests without warrant for all violations of the law which they may witness, and to serve and execute local warrants; to act as game protectors and forest, fish or fire wardens. The details as to the number of appointments and salaries, are given.[98]

The superintendent of the Pennsylvania police may appoint and remove the chief of the fire department of any county, city, borough, town or township, and such official shall be subject to the obligations imposed by the law and the authority of the State police. The police may adopt and enforce rules and regulations regarding the keeping and use of combustible materials and the placing for use of fire extinguishers. They may inquire into the origin of fires and make report on the subject and inspect the premises and order the removal of any material or any other thing that may constitute a fire menace. They shall prepare books of instruction for the use of students with regard

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[97] Act of June 7, 1923, P. L. 498, Sec. 710 and following.
[98] Act of May 21, 1921, P. L. 1061; also Act of April 27, 1925, P. L. 314.

to dangers of fire and arrange for drills in schools.[99] They further have the authority to cause dance halls to be vacated whenever any law is violated therein.[100]

With reference to State Highway Patrolmen, see act of 1927.[101]

b. Local Police

Investigation of the commission of crime for the purpose of discovering the suspect is made by the detective force which is a part of the city police.

Police have power to search and seize under the authority of a search warrant issued by a magistrate or justice of the peace. Even without this warrant they may investigate and interrogate the accused while in custody. This latter power is usually spoken of as the third degree when it is designed to stimulate the suspect to confess.

Where a warrant issues any one may serve it. In Philadelphia generally, it is served by the police.[102] If the offender is outside the county the arrest may still be made.[103]

The arrest when made without a warrant is usually made by the police in the case of:

(1) Any person actually committing or who has actually committed a felony.

(2) Any person reasonably suspected of having committed a felony if a felony has actually been committed.

(3) Any person reasonably suspected of having committed a felony whether the felony has or has not been committed.

A private individual may usually arrest an offender in instances (1) and (2) but not (3).

The laws with reference to local police are grouped generally under the laws having to do with cities, of different classes, and boroughs and townships. Owing to the local character of these laws only brief reference is made to them.

In cities of the first class, there are established departments of public safety.[104] These departments have supervision over

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[99] Act of April 27, 1927, P. L. 450, No. 291, Sec. 7.
[100] Act of May 16, 1919, P. L. 193, Sec. 9.
[101] Act of May 11, 1927, P. L. 886, Art. XII, Sec. 1215.
[102] Act of April 21, 1855, P. L. 270, Sec. 25.
[103] Act of March 31, 1860, P. L. 427; Act of May 2, 1899, P. L. 173.
[104] Act of June 25, 1919, P. L. 581, Art. V.

police forces and fire forces. The law provides the qualifications of policemen and firemen and provides for the proper uniforms and for the appointment of additional patrolmen at certain places throughout the city. A pension fund for city employees is also established.[105]

The law provides for cities of the second class, a department of public safety which shall have management over the police force; it also prescribes the qualifications of policemen and firemen.[106] An earlier law permits the appointment of additional patrolmen and special patrolmen.[107] Later a bureau of public morals, is established,[108] with proper detail of policemen and detectives.

Such matters as pension funds or proceedings for dismissal and trial of policemen are further specified. In cities of the third class, provision is made for a department of public safety and a police force.[109]

Police and pension funds in townships of the first class are regulated,[110] as are also the powers and duties of police in boroughs.[111]

Police officers are not permitted to stop any motor vehicle for the purpose of selling tickets or for any other form of solicitation.[112]

There are a numer of additional statutes that need not be specified because they do not have reference to the entire State.

2. Vehicular Code

The general subject of motor vehicles is an extensive one which need only be referred to briefly here. Reference should be made particularly to the Act of 1927.[113]

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[105] Act of May 20, 1915, P. L. 566; and July 5, 1917, P. L. 689.
[106] Act of June 20, 1901, P. L. 586.
[107] Act of March 7, 1901, P. L. 20, Art. III, held unconstitutional in 253 Pa. 442. See also Act of June 20, 1901, P. L. 586. Act of July 26, 1913, P. L. 1360.
[108] Act of June 27, 1913, P. L. 638.
[109] Act of May 27, 1919, P. L. 310; Sec. 24 as amended by Act April 23, 1927, P. L. 374; also Act of May 24, 1921, P. L. 1068.
[110] Act of April 30, 1925, P. L. 384.
[111] Act of May 4, 1927, P. L. 519, Secs. 1125 to 1136.
[112] Act of April 27, 1927, P. L. 421.
[113] Act of May 11, 1927, P. L. 886.

3. Housing Laws

The laws relating to tenement houses and general housing conditions are ordinarily a matter of control by city ordinances.

Fire escapes are provided for.[114]

It is the duty of the Department of Labor and Industry, to inspect rooms, buildings or places where labor is performed; examine plans for all buildings more than two stories high and check plans for elevator installation.[115]

The duty of the Department of Health shall be to investigate the sanitary conditions of tenement, lodging and boarding houses, and when they are found to be a menace to those occupying the same or those employed therein or to be overcrowded, to condemn the same in such manner and subject to such limitations as may now or hereafter be provided by law.[116]

The sanitary regulations in restaurants, hotels and eating places are covered.[117]

In addition to the above laws the various cities and other subdivisions have special laws relating to housing, for instance, in cities of the first class there is a bureau of inspection which has to do with the safety regulations of buildings and provides in detail such matters as construction of buildings by permit, the foundation, walls, floors, roofs, elevators, heating apparatus, structural iron and steel work, fire proofing and et cetera. A division of housing and of sanitation is also established for sanitary regulations in the matter of light and ventilation, sanitation, overcrowding, fire protection and maintenance of cleanliness. A further set of laws in these cities provides for regulation and licensing of trades and provides licenses for tenement houses, theatres, junk shops, bar rooms, plumbing and milk dealers. The city health department has control over health regulations and purification of the water supply.

In cities of the second class provision is made for a bureau of health and health regulations, for the abatement of nuisances,

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[114] Act of June 7, 1919, P. L. 406, as amended by Act of April 27, 1927, P. L. 465.

[115] Act of June 7, 1923, P. L. 498, Art. XVII.

[116] Act of June 7, 1923, P. L. 498, Sec. 1803.

[117] Act of April 27, 1927, P. L. 437.

Note: See also the following Law:
Act of May 14, 1915, P. L. 312.

for pure food regulations, for the control of contagious diseases and the regulation of tenement houses, cemeteries and hospitals. There is a bureau of building inspection that controls the construction of buildings including tenement houses.

In cities of the third class there is a board of health and health regulations, which has similar control over plumbing, sanitation, nuisances and city and county hospitals. Other regulations cover sewers and piping and water.

In boroughs, the control of the borough is placed in certain elected officers, being the councilmen, who have supervision over such matters as sewer, water courses, and licensing of businesses.

It does not appear that any particular purpose will be served by a more detailed statement of this particular subject.

Chapter IX

LAWS RELATING TO SPECIFIC TYPES OF CONTRACTS

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Laws Relating to Specific Types of Contracts

One of the great divisions of the law is that relating to contractual relations. While most of the law on this subject is of technical note, there are certain specific types of contracts which are the subject of specific statutes. Of these the following have been selected because the records of the National Association of Legal Aid Organizations, indicate that these particular cases arise more frequently than some of the others.

I. WAGE CLAIMS

A wage claim is a contract in which the employer agrees to pay certain money, and the employee agrees to do certain work. Once the contract is made, if either party fails to conform to its

terms, the other has a right of action. The most important element in wage claims are the laws providing for special assistance to the employee in collecting his money when the employer may not have enough to go around among all his creditors. Wage claims for labor and services for any period not exceeding six months preceding the sale or transfer of property of the employer to the extent of two hundred dollars, are made a prior lien upon the property.[1]

A similar preference is given in all cases of executions, landlord's warrants, attachments and writs of a similar nature;[2] in cases of death, insolvency or assignment of property of the employer.[3]

No mortgage, or other instrument by which a lien is created shall operate to impair or postpone the lien given wages,[4] this is also specified regarding coal lease mortgages.[5]

The priority of wages of laborers engaged in lumbering is set forth[6] and the laborer who claims such a preference shall give notice of his claim before sale and allow payments to be made.[7]

Claims for wages shall have preference over claims for rent when the lessee is the employer.[8]

Suits for wages shall be placed first on the list of civil causes and the court shall try all cases as they are listed.[9]

No stay of execution shall be allowed on any judgment for wages of manual labor for one hundred dollars or less.[10]

Unless otherwise stipulated in the contract, wages must be paid at least semi-monthly; failure to do so imposes a fine of not exceeding one hundred dollars.[11]

Assignments of future wages payable semi-monthly and also agreements to the contrary, are rendered invalid.[12]

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[1] Act of May 12, 1891, P. L. 54.
[2] Act of April 9, 1872, P. L. 47.
[3] *Ibid.*, Sec. 3.
[4] Act of April 9, 1872, P. L. 47, Sec. 4.
[5] Act of May 8, 1874, P. L. 120.
[6] Act of May 7, 1891, P. L. 44.
[7] Act of June 12, 1879, P. L. 176.
[8] Act of June 12, 1878, P. L. 207.
[9] Act of March 22, 1877, P. L. 13.
[10] Act of May 14, 1874, P. L. 145.
[11] Act of April 24, 1913, P. L. 114.
[12] Act of May 20, 1891, P. L. 96.

There shall be no assignments of future wages to secure loans unless the employers accept the assignment, and unless there is attached thereto the written consent of the wife.[13] The court in construing this act in 23 D. R. 558, held that it violated Article 3, section 7, of the Constitution of Pennsylvania.

The employer who requires from his employee, under penalty of forfeiture of wages, a notice of intention to leave, shall be liable to the injured party in the amount of a sum equal to the amount of forfeiture, if he discharges without a similar notice any such employee, except for incapacity or misconduct, unless in case of a general suspension of labor or suspension of work ordered by the employees.[15]

Upon a written order of the employee, the employer may deduct from the wages any contribution or voluntary subscription to a hospital or charitable institution.[15]

a. Seamen's Wages

Seamen's Wages are Covered by Several Federal Acts.[16]

b. Imprisonment for Debt

Imprisonment for debt is abolished except for proceedings for contempt, to enforce remedies, action for fines for penalties, or on promise to marry, on moneys collected by any public officer, or for any misconduct or neglect in office, or for any professional employment. In all cases of imprisonment for debt the plaintiff shall be liable for the payment of the board and the jailer's fees for the time of commitment, if the defendant makes an affidavit that he is unable to support himself.[17]

The court is authorized to commit to jail an insolvent defendant if the insolvency arose from losses by gambling, or if the prisoner has embezzled money in his hands, or if he has concealed or conveyed property or tried to, with intent to defraud his creditors. Criminal penalties for frauds on creditors are provided for.[18]

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[13] Act of June 4, 1913, P. L. 405.
[14] Act of May 23, 1887, P. L. 181.
[15] Act of May 15, 1874, P. L. 194.
[16] Act of June 7, 1872, par. 322; Act of June 28, 1906, par. 3583; March 4, 1915, Chapt. 153; June 5, 1920, Chapt. 250.
[17] Act of July 12, 1842, P. L. 339.
[18] Act of March 31, 1860, P. L. 282, Sec. 132–134.

Certain prisoners may be discharged without delay and expense of any proceeding under the insolvent laws provided the county commissioners shall be satisfied that the defendant is unable to pay the debt.[19]

II. MECHANICS' LIENS

The law relating to mechanics' liens is highly technical and it is perhaps sufficient here, to state the application of the law and make a reference to it. The idea of a mechanic's lien is that where a laborer has done work either in erecting a new building or in making additions to an existing building, he should have some means of making a claim for his wages ahead of other creditors of the owner of the building. For this purpose, the law permits him to file in the court a claim which is known as a mechanic's lien and which gives him preference in the payment of wages and holds the building as security for that preference even allowing it to be sold. The technical steps in filing a lien provide the time when it must be filed. If the building construction is a new one, the laborer or sub-contractor, has six months after completion of the work in which to file his claim, but he must give notice of his intention to file the claim by giving a paper containing such information to the owner at least one month before filing the claim and at least three months after the work is finished. If the work is in the nature of repairs the claim must be filed within three months and the notice be given at least one month before the claim is filed and forty-five days after the work is completed. It is customary in building operations to have all contractors and sub-contractors sign a document which is called a release of liens whereby the workmen waive their rights to file liens. In the case of purchasing a house it is customary to require the seller to produce at the settlement an affidavit stating that no work has been done on the property within six months which might be the basis of a claim for a mechanic's lien, or to produce the receipted bills showing that the work has been paid for in full.

III. LANDLORD AND TENANT

The relation of landlord and tenant is created by a contract known as a lease. The rights of the parties under a lease are

[19] Act of May 6, 1915, P. L. 266.

ascertained, first by reference to the terms of the lease, and secondly when the lease does not cover the point to the various laws.

Ordinarily leases are printed or drawn up in a form favorable to the landlord or person who owns the property. He usually agrees to let the tenant occupy the premises for a certain period of time at a certain rental. Most of the laws on the subject deal with the right of the landlord in case the rent is not paid. The landlord has two main rights:

(a) to recover the rent;
(b) to evict the tenant.

The right to secure rent is called the right of distress. The general right of distress and the procedure, is given.[20] As a general principle all goods on the premises, whether belonging to the tenant or not may be seized except the following:

(a) Goods to the value of three hundred dollars, exclusive of all wearing apparel of the tenant and his family, and all bibles and school books. This privilege may be lost by agreement in the lease or otherwise.[21]
(b) Leased pianos, melodeons and organs are exempted. Notice of the leasing must be given to the landlord.[22]
(c) Leased sewing machines and typewriters, provided the landlord has notice of the leasing, are exempted.[23]
(d) Leased soda water apparatus upon notice to the landlord.[24]
(e) Ice cream cabinets, ice cream containers, and the appurtenances thereto, loaned to, or leased or hired by any person or corporation, or conditionally sold, are exempted from levy or sale on execution or distress for rent.[25]

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[20] Act of March 21, 1772, 1 Sm. L. 370, Sec. 14.
[21] Act of April 9, 1849, P. L. 533.
[22] Act of May 13, 1876, P. L. 171.
[23] Act of June 25, 1895, P. L. 282.
[24] Act of May 3, 1909, P. L. 423.
[25] Act of April 22, 1927, P. L. 351.

The landlord may pursue for a period of thirty days, and seize goods fraudulently removed from the premises as a distress for arrears in rent. If however, after removal the goods are found in the hands of a bona fide purchaser, they are exempt from seizure.[26]

The special act of 1825,[27] as amended by the act of 1870[28] extends to Philadelphia and Allegheny Counties this right of seizing goods fraudulently removed.

The procedure is to direct a constable to seize the goods. Penalties are imposed for rescuing goods from the custody of the constable, and for distraining when no rent is due. The constable proceeds to arrange for an appraisement of the goods claimed under the exemption law, and then after distress and notice, and the expiration of five days the appraisement shall take place, and after six days public notice the goods may be sold. The proceeds of the sale shall be divided up, the landlord to receive the preference except that the costs shall be paid first. In any execution there shall be no stay of execution without the landlord's consent.[29]

The landlord has preference in bankruptcy proceedings.[30]

Where the landlord desires to recover possession of the property at the expiration of the term he has recourse to the outlined procedure[31] which provides for the proceedings before a justice of the peace. The use of force to eject the tenant is authorized.[32]

Provision is made for the proceedings on a lost lease in Philadelphia.[33]

Where the landlord desires to evict the tenant for the nonpayment of rent, reference should be made to the law.[34]

It is difficult to set down the rights of the landlord or the tenant in this matter because the tenant usually waives his rights in

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[26] Act of 1772. Supra.
[27] Act of March 25, 1825, P. L. 114.
[28] Act of March 29, 1870, P. L. 669.
[29] Act of June 16, 1836, P. L. 755, Sec. 85.
[30] Act of July 17, 1919, P. L. 1029.
[31] Act of 1772; act of March 22, 1814, 6 Sm. L. 176; Act of Dec. 14, 1863, P. L. 1125.
[32] Act of March 31, 1905, P. L. 87; Act of April 10, 1905, P. L. 135; Act of May 20, 1913, P. L. 238; and Act of Feb. 20, 1867, P. L. 30.
[33] Act of February 28, 1865, P. L. 253.
[34] Act of April 30, 1830, P. L. 187; and Act of March 22, 1861, P. L. 181. In Philadelphia see Act of March 25, 1825, P. L. 114; and Act of March 24, 1865, P. L. 750.

signing the lease, and reference to the lease should always be made to determine what the tenant's rights are.

It would appear that in general the tenant is responsible for the repairs, and also liable for all taxes due and unpaid on the leased premises.[35] The tenant's right to exemption is usually waived in the lease.

The proceedings in connection with a landlord and tenant contract are usually before a magistrate or justice of the peace but there are eviction proceedings, which take place in the court of common pleas.

IV. NEGOTIABLE INSTRUMENTS

There are in general, three types of contracts which are known as negotiable instruments—checks on banks, promissory notes and bills of lading. They are usually involved in the sale of goods or the borrowing of money.

Promissory notes are of two sorts; the ordinary promissory note where the individual promises to pay back the money at a certain time and the other type of note is the judgment note. A Judgment note in addition to the promise to pay back, contains a special provision authorizing the holder to enter judgment against the person who is responsible for the payment of the note and to proceed to execution without any intervening suit.

The whole subject of negotiable instruments is taken care of in Pennsylvania by statute which is substantially identical with the statutes in many other states.[36]

One or two additional acts which provide special penalties in connection with checks, should be referred to.[37]

V. SMALL LOANS

The subject of "loan shark" is a serious problem which the legislature has endeavored to control by the adoption of what is known as the Uniform Small Loans Law.

When a person borrows money from a bank he usually pledges with the bank as security for the repayment of the money, stocks,

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[35] Act of April 3, 1804, 4 Sm. L. 201.
[36] Act of May 16, 1901, P. L. 194.
[37] Act of April 18, 1919, P. L. 70; and Act of April 5, 1927, P. L. 118, No. 81

bonds, a mortgage or other valuable thing. When a person borrows money from a pawn broker, he usually pledges with that pawn broker some personal article such as a watch or overcoat. In both of these cases the risk of the lender is comparatively small so that he may do business profitably if he receive in return six per cent interest.

The individual who borrows from the loan shark or from his more reputable related organization very often cannot give much in the way of security. He is often a member of a shifting population and the likelihood of loss to the leader is considerable. To compensate him for this loss, if he is to remain in business, it is necessary for him to charge more interest than six per cent. If he acts in accordance with the dictates of conscience, he restricts his charges. The so-called loan shark, however, frequently charges from one hundred (100) to five hundred (500) per cent or more. To control this situation, the State of Pennsylvania has passed a special law regulating small loans. On loans of three hundred dollars and less, the law has permitted lenders a rate not to exceed three and one-half ($3\frac{1}{2}$) per cent per month which amounts to forty-two (42) per cent a year.[38] On the further question of usury see the act of 1927.[39]

Except for these provisions, the lawful rate of interest is established at six per cent per year.[40] The law provides that where a rate of interest exceeding that established by law shall have been reserved or contracted for, the borrower or debtor shall not be required to pay to the creditor, the excess over the legal rate and it shall be lawful for such borrower or debtor at his option to retain and deduct such excess from the amount of any such debt.

a. Pawn Brokers

The pawnbroking business is the subject of law.[41]

VI. INVESTMENTS AND SECURITIES

The matter of investing money in stocks, bonds and other

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[38] Act of June 4, 1919. P. L. 375.
[39] Act of April 27, 1927, P. L. 404, No. 260.
[40] Act of May 28, 1858, P. L. 622.
[41] Act of May 7, 1907, P. L. 175; and Act of May 20, 1913, P. L. 246.

securities has been the cause of so much loss of money that the legislature has taken it in hand.[42]

The law provides that dealers and salesmen shall be registered. In order to become registered, an application must be made together with which is submitted a certificate of good repute. Securities shall not even be advertised until after the dealer is registered and there is a prohibition against false statements in the advertising. The dealer's registration and license may be revoked for fraud or fraudulent practice. A commission is established called the Pennsylvania Securities Commission, to administer this act.

VII. SALES OF PROPERTY

a. Real Property

Real property at law consists of land, buildings and things fixed so permanently with the land that they are regarded as being part of it.

Sales of real property are extremely complicated and all that can be done here is to point out some of the preliminary features which a person should have in mind before attempting to buy real estate. The most important thing of all is to remember that contracts with regard to real estate must be in writing in order to be valid. Therefore, it is advisable not to put a pen to paper with reference to the sale of real estate or the purchase thereof, until one is perfectly satisfied that the conditions set down in writing are in all respects acceptable. Under some circumstances a payment of money on account may have the same effect.

The purchaser of real estate will want to know whether his title is clear. Titles are not clear when there are existing against the property claims of the government for taxes; claims of individuals for mortgages, ground rents, judgments, mechanic's liens and various other matters. In some parts of the State it is customary to iyvestigate the title to real estate before purchasing by having a title insurance company make a report on the sub-

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[42] The original Act of June 14, 1923, P. L. 779, was amended by the Act of May 6, 1925, P. L. 528, in place of both of which is substituted the Act of April 13, 1927, P. L. 273.

ject and issue an insurance policy to support the report. In all parts of the State the investigation of land titles is done by lawyers. No one should attempt to buy land without either providing in the agreement for the purchase that the title shall be clear, or without knowing specifically what obligations exist.

The documents for constituting contracts for the sale of real estate are ordinarily called deeds. In addition to these customary documents are mortgages, leases and special agreements having to do with the land such as agreements permitting telephone wires to be run across the land.

b. Recording Documents

The sale of real estate or the mortgaging of real estate is not complete until the instrument is recorded. In each county of the State there is a public office known as the Recorder of Deeds office in which it is possible to record documents which conform to certain formal requirements such as being in writing, being signed and witnessed and being signed before a notary public. The effect of recording is to give notice to every one that the transaction has taken place. Failure to record an instrument having to do with real estate may effect the rights of the holder in case somebody else buys property and gets his document recorded first.

c. Personal Property

Personal property is distinguished from real estate by the fact that it consists of moveables, it also includes such intangible matters as shares of stock which in addition to the certificate represent a right of ownership in a corporation. Ordinarily in Pennsylvania personal property may be sold freely without any particular form to the contract. The exceptions are specified in the uniform sales act[43] which among other things requires that if the property sold is of the value of five hundred dollars or upwards, a contract with regard to it in order to be valid must be in writing.

In the matter of the sale of automobiles there are also special provisions to be complied with.

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[43] Act of May 5, 1915, P. L. 543.

d. Sales in Bulk

A particular type of sale is that which takes place where the owner sells all his property or a very large part of it, for example a man who owns a shop might sell the bulk of his stock. This procedure is regulated by law for the sake of protecting creditors of the seller.[44]

The procedure briefly is as follows: The purchaser demands from the seller a sworn statement containing the names and addresses of the seller's creditors and the amount due each of them. The purchaser then notifies the creditors at least ten days before the completion of the sale. The law provides that in the event a sale in bulk takes place without this formality and without the written approval by the creditors of the transaction, the creditors may set aside the sale and the purchaser shall be liable to the creditors for the amount of the materials he purchased.

e. Conditional Sales

In addition to the ordinary sales there are such things as conditional sales. This relates to the sale of personal property under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of a part or all of the price or upon the performance of any other condition or the happening of any contingency.[45] The law relating to the conditional sales of chattels attached to real estate is the act of 1927.[46] It is under another act that[47] there come many cases in which the purchaser agrees to pay money in installments, for instance—installment furniture and installment clothing contracts.

f. Sales of Property Under Common Law Lien

In the law it frequently happens that the owner of the property delivers it to some one else to have some special work done on it. This is the case when a man takes a suit to the tailor's to be pressed or a pair of shoes to the shoemaker's to be repaired. In some special instances the individual who performs work on

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[44] Act of May 23, 1919, P. L. 262; and the later act of May 10, 1927, P. L. 879, No. 446.

[45] Act of May 12, 1925, P. L. 603, No. 325.

[46] Act of May 12, 1927, P. L. 979.

[47] Act of May 12, 1925, P. L. 603; as amended by the Act of May 12, 1927, P. L. 979.

the article thus delivered, is by statute given a special lien or right to retain the property in his possession until the work done on it has been paid for in full. In other instances where the statute law does not make particular reference, the common law provides that the owner may not have back his property until the money has been paid.

There are occasions when property thus held by the one who has done work on it, is not called for by the owner and provision must be made by which the property can be sold to pay the workman for his labor and the procedure to handle this matter is covered by law.[48]

VIII. PARTNERSHIP

The relation of partnership is a further contactual relation which causes much difficulty. The uniform partnership law covering this whole subject is in effect in Pennsylvania.[49]

The law of Pennsylvania permits various kinds of partnerships to be established. Under ordinary conditions, the parties to a partnership are liable from their own private funds for all the expenses of the partnership business whether incurred by themselves or one of their partners. The special forms of partnership in Pennsylvania are established to limit the liability of the members until we reach the case of a corporation where all the members are exempted from personal liability except to the extent to which they actually put money into the business.

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[48] Act of May 7, 1925, P. L. 557.
[49] Act of March 26, 1915, P. L. 18.

CHAPTER X

LAWS RELATING TO LABOR

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I. THE DEPARTMENT OF LABOR AND INDUSTRY

There are many laws in Pennsylvania relating to labor and to different kinds of labor. For other compilations of such laws reference should be made to the publications of the United States Bureau of Labor Statistics,[1] and of the Pennsylvania Department of Labor and Industry.[2]

The general supervision over such matters is given in Pennsylvania to the Department of Labor and Industry established by the Act of 1923.[3] The duties and powers of this Department relate to—

1. Inspection and administration of places where work is done.

2. Making investigations and surveys of any subject within its jurisdiction.

3. Collecting and compiling statistics relating to labor and industry, employer and employee and to organizations of employees.

4. It has the right to make rules and regulations for carrying into effect the laws of the state having to do with labor and the construction, ventilation and equipment of the rooms, build-

[1] U. S. Bureau of Labor Statistics, Washington, D. C.
[2] Laws Administered by the Department of Labor and Industry, Commonwealth of Pennsylvania, Special Bulletin No. 5.
[3] Act of June 7, 1923, P. L. 498, Sec. 1701.

ings or places where such labor is performed or where public assemblies are held.

5. Where a difference arises between an employee and an employer with regard to wages, hours or conditions of employment, to endeavor by mediation to settle a controversy or to arbitrate it or to name an impartial chairman of the Board of Arbitration in certain circumstances.

6. To make studies in connection with the labor of women and children and to enforce the laws relating to women and children.

7. The general subject of workmen's compensation.

8. The general subject of rehabilitation of persons injured in industrial pursuits including vocational instruction.

9. To establish employment offices or labor exchanges to promote the intelligent distribution of labor and to bring together employer and employee and supervise the private and public employment agencies.

In connection with this Department there is established the State Workmen's Insurance Board, the Workmen's Compensation Board and the Workmen's Compensation Referees. The Industrial Board is created to supervise the work of the Department.

II. LAWS RELATING TO HOURS OF LABOR

Eight hours between the rising and setting of the sun shall be a legal day's work where there is no contract or agreement to the contrary.[4] This law does not refer to agricultural labor or service by the year, month or week, nor does it prohibit overtime or extra work.

Eight hours shall constitute a day's labor and service in the penitentiary and reformatory institutions.[5]

Athletic exhibitions shall be limited to twelve hours a day.[6]

III. LAWS RELATING TO CONDITIONS OF EMPLOYMENT

These laws[7] deal with health and safety and provide for toilet

[4] Act of April 14, 1868, P. L. 99.
[5] Act of May 20, 1891, P. L. 100.
[6] Act of April 11, 1903, P. L. 166.
[7] Act of June 3, 1893, P. L. 276; Act of May 11, 1901, P. L. 178; Act of May 2, 1905, P. L. 352; Act of July 24, 1913, P. L. 970; Act of May 27, 1919, P. L. 307 Act of June 7, 1911, P. L. 673; Act of June 7, 1915, P. L. 888.

rooms, wash rooms, and water closets in certain establishments, and for their heating, ventilating, and cleaning; and the penalty assessed is a fine not exceeding $100.00.

All rooms, buildings, and places in this Commonwealth where labor is employed, or shall hereafter be employed, shall be so constructed, equipped, and arranged, operated and conducted, in all respects, as to provide reasonable and adequate protection for the life, health, safety, and morals of all persons employed therein.

Not less than one hour shall be allowed for the noon-day meal in any establishment. But the Chief Factory Inspector may, for good cause, reduce the time for the noon-day meal in establishments where all the other provisions of this Act are observed, which entails duties upon the part of the employers.

(Except where special notification shall be given, hours for the noon-day meals of all other employees may be the same as those for females and minors.

Sections 9 and 10 are repealed so far as they are inconsistent with Sections 6 and 13 of the Women's Labor Act of 1913, and Child Labor Act of 1915.)

Machinery of every description shall be guarded. Likewise elevators and boilers. In cities of the first and second classes, elevators and boilers are regulated by local ordinances.

Not less than 250 cubic feet of air space must be provided for every person in every workroom.

Every employer must provide reasonable safeguards against the contraction by his employees of any illness or diseases incident to work. Every work or process in the manufacture of white lead, red lead, litharge, sugar of lead, arsenate of lead, lead chromate, lead sulphate, lead nitrate, or fluosilicate is hereby declared to be especially dangerous to the health of the employees who, while engaged in such a process, are exposed to lead dusts, lead fumes, or lead solutions.

There are special provisions specified for the health and welfare of the workers in establishments handling these substances.[8]

Compressed air. There is a special law for workers in com-

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[8] Act 851, July 26, 1913, P. L. 1363.

pressed air regulating the conditions of work, hours, relief periods, etc.[9]

Foundries. There is a special law for the health and welfare of workers in foundries.[10]

IV. FEMALE LABOR

1. The Woman's Labor Law

a. Where it applies

With the exception of farm work and domestic service in private homes the Woman's Labor Law applies to work done by women in any establishment. Work on industrial processes done in private homes is included.

b. Who enforces it

The Woman's Labor Law places the duty of enforcement on the Department of Labor and Industry.

c. Girls under 18 years of age

A digest of the Child Labor Law and the regulations that affect the employment of minors has been published by the Department of Labor and Industry and the Department of Public Instruction. This digest, entitled "The Employment of Children in Pennsylvania," is available on request from either department.

2. Hours of Work

*a. Daily and weekly hours**

No woman may work more than:

10 hours a day
54 hours a week
6 days a week

with the following exceptions:

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[9] Act 364, July 19, 1917, P. L. 1088.

[10] Act 32, June 7, 1911, P. L. 673, as amended by Act of May 27, 1919, P. L. 307.

* The term day means any 24 consecutive hours and the term week means any 7 consecutive days.

b. Occupations

Nurses in hospitals are exempted from the provisions of the Woman's Labor Law regulating daily and weekly hours and night work.

Workers in canneries are exempted from the provisions limiting the daily and weekly hours of work.

Workers in small hotels and institutions, and in short term summer hotels may have the weekly day of rest subdivided if permission is granted by the Department of Labor and Industry on petition of the employer. Should permission be granted, the working hours may not exceed 5 on two days of the week or 8 on the other 5 days, and at least 9½ hours of consecutive rest shall be allowed on each of the two days. A small hotel or institute is one employing not more than 10 women and a short term summer hotel is one operating not more than four months of the year.

Workers in telephone exchanges which are located in private homes are exempted from the Woman's Labor Law only where they are members of the family, over 21 years of age, employed with no definite hours of work and where the peg count shows an average of at least 6 hours of rest during the night period.

c. Overtime provisions

Where a legal holiday is observed by an establishment women may work up to 12 hours a day on three days in the same week, but they may not exceed 54 hours that week.

Where a breakdown of machinery suspends operations for more than 30 minutes, women may work up to 12 hours a day to make up time provided they do not exceed 54 hours a week. Written notice of this overtime must be sent to the Secretary of Labor and Industry.

If a woman is employed in more than one establishment in a day or in a week, the total number of hours she may work may not exceed 10 hours a day or 54 hours a week.

d. Night Work

Work after 10 o'clock in the evening and before 6 o'clock in the morning is prohibited for all women working in manufacturing establishments except managers, superintendents, or per-

sons doing clerical or stenographic work. Laundries, bakeries, and printeries are classed as manufacturing establishments. Proof reading is interpreted as a clerical occupation and is permissible after 10 o'clock in the evening.

Work after 9 o'clock in the evening and before 6 o'clock in the morning is prohibited in any establishment for all girls under 21 years of age except for telephone operators who are 18 years of age or over.

e. Lunch Period

A lunch period of at least 45 minutes shall be observed, except that where the working day is less than 8 hours the lunch period may be reduced to 30 minutes. No woman may work more than 6 hours continuously without such an interval for rest.

f. Posting of Hours

The names and hours of work of all women employed, together with a digest of the Woman's Labor Law, shall be kept posted in the rooms where the women work. The digests and schedules for the posting of hours may be obtained from the Department of Labor and Industry.

3. Prohibited Occupations

The occupations which are prohibited for women are classified in the following alphabetical list.

a. Cranes

Operating cranes, except where approved by the Department of Labor and Industry.

b. Explosives

Work in any plant manufacturing explosives and chemicals, except under specified conditions providing for health and safety.

c. Foundries

Handling cores at a temperature of more than 110°F.

Making or handling cores where the combined weight of core, core box and plate exceeds 15 pounds.

d. Lead

Handling any dry substance or compound containing lead in excess of two per cent, except in the setting up of blue beds in the corroding stacks of the old Dutch Process where the buckles or lead plates used have not previously been corroded.

e. Meters

Testing and reading gas and electric meters.

f. Railroads

Calling train crews.

Work on tracks or at trucking for railroads.

g. Welding

Acetylene and electric welding or burning.

4. General Work Conditions

a. Sanitation

Premises—Every establishment and its premises shall at all times be kept in a clean and safe condition.

Drinking Water—Cool and pure drinking water shall be provided at all times. The use of a common drinking cup is prohibited.

Toilet Rooms—Toilet rooms shall be provided separate for men and women. They shall be kept clean and sanitary, and shall be well ventilated and properly lighted. There shall be at least one toilet for every 25 women employed. Each toilet shall be in a separate compartment with a door which locks. A covered receptacle shall be kept in the toilet room. Where more than 15 women are employed in a mercantile establishment, toilet accommodations shall be provided separate from those for the general public.

Wash Rooms—Wash rooms shall be provided.

b. Retiring Rooms

A retiring room for the exclusive use of women shall be pro-

vided in every industrial establishment employing five or more women. It shall have outside ventilation. Couches shall be provided, one for 40 women or less, two for 40 to 100 women, three for 100 to 250 women, and one for each additional 250 women.

c. Seats

Suitable seats shall be provided for women in the ratio of at least one for every three women employed. The seats must be in the work room, located conveniently and their reasonable use permitted.

d. Protection from Poisonous Substances, Gases, Fumes or Dust

Hoods, pipes and exhaust fans shall be provided and operated to carry off any poisonous or injurious fumes, gases or dust created where women are employed. Separate lunch rooms shall be provided for women employed in such places or where poisonous substances are used.

e. Safe Practice in the Cigar Industry

The practice of bringing the cigar into contact with the mouth both in manufacturing and in banding cigars is prohibited.

f. Health Certificates

No person may be employed in a bakery or public eating or drinking place without a certificate of health.*

g. Fire Drills

Fire drills shall be conducted at least once each month in industrial establishments where women are employed above second floor.

5. Penalty for Violation

Any person or agent violating any provisions for the Woman's Labor Law is subject to a fine of not less than $10 nor more than

* The Department of Health enforces the requirement for certificates of health in public eating and drinking places.

$200, to imprisonment for not more than 60 days, or to both fine and imprisonment.[11]

V. PEDDLERS AND LICENSES

The general regulation of peddlers is through the issuance of licenses by the Court of Quarter Sessions.[12] Licenses may be issued only to citizens of the United States and to persons who from bodily infirmity shall be disabled from procuring a living by labor.[13] There is a penalty for peddling without a license or refusing to show a license, of fifty dollars for the first offense, and one hundred and twenty dollars for the second offense. But this does not apply to prevent persons from hawking and peddling goods of their own manufacture by themselves or through other authorized agents.[14]

Disabled soldiers, sailors and marines who are honorably discharged and who are residents of this state and who are unable to procure a livelihood by manual labor, may secure a license without cost.[15] A further law on the subject of licensing authorizes the mayors of all cities to appoint a committee to investigate certain applications for peddling licenses when the applicant claims to be an honorably discharged soldier, sailor or marine.[16]

County treasurers may issue licenses to hawkers and peddlers[17] and certain requisites in obtaining a license are specified.[18]

It is necessary to secure a license to peddle, in cities of the first class, fish, fruit, vegetables or other merchandise and there is a penalty for peddling without a license but this does not prevent an individual peddling the products from his own farm or garden; a license plate is secured under such circumstances without charge.[19]

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[11] "The Employment of Women in Pennsylvania," A Digest of the Woman's Labor Law and the regulations of the Department of Labor and Industry affecting the employment of women, issued by the Department of Labor and Industry, Commonwealth of Pennsylvania.
[12] Act of April 2, 1830, P. L. 147.
[13] Act of April 16, 1840, P. L. 433.
[14] Act of May 9, 1899, P. L. 150.
[15] Act of June 9, 1891, P. L. 250; and Act of May 17, 1921, P. L. 895.
[16] Act of March 19, 1925, P. L. 59, No. 38.
[17] Act of June 14, 1901, P. L. 563.
[18] Act of May 5, 1841, P. L. 342, Sec. 7.
[19] Act of May 17, 1917, P. L. 204, Sec. 5.

Licenses are issued to persons who propose to peddle within cities of the second and third class. Farmers, gardeners or dairymen are not prohibited from selling the products of their own farms, gardens or dairies.[20]

Another law relating to licensing is that of the general mercantile license tax. This imposes a tax on vendors of or dealers in goods, wares or merchandise and establishes mercantile appraisers in certain cities.[21]

Another law provides for the licensing and regulations of second-hand dealers in cities of the second class.[22]

In addition to the foregoing, there are a number of local acts dealing with peddling.

VI. LICENSE TAXES

In many parts of the state it is necessary to secure a license before engaging in business. For instance, there must be a license for keeping a lodging-house, a license for public dances and dance halls, and there must be licenses for doing plumbing work. Many of these licensed regulations are under the control of the cities of different size; for instance, in cities of the first class it is necessary to get a permit to build or alter a building.

The general regulation as to licensing of businesses and trades and provisions, however, comes under the head of powers of the Mayor and includes such matters as tenement houses, theatres, manufacturing, sale of explosives, junk shops, steam engineers, plumbers and plumbing, and milk dealers.

In cities of the second class similar laws are in effect and the same is true of cities of the third class.

In boroughs arrangements are made for licensing such matters as commissioners, foreign dealers in merchandise and transient and retail merchants, also the establishing of rates of license fees on all vehicles. The law does not relate to farmers who sell their own products in or about cities.[23]

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[20] Act of June 10, 1881, P. L. 109.
[21] Act of May 2, 1899, P. L. 184, as amended by the Act of May 14, 1925, P. L. 745; see also Act of April 30, 1925, P. L. 372.
[22] Act of March 31, 1927, P. L. 95.
[23] Act of May 4, 1927, P. L. 519, Art. XXIX.

VII. PENSIONS FOR EMPLOYEES

The law provides for a number of different kinds of pensions. With reference to the Mothers' Assistance Fund see Chapter I.

Cities of the first, second and third class provide pensions for their employees and for firemen and policemen. There is also a public school retirement system and provision is made for members of the National Guard, soldiers, sailors and marines in some cases.

There is a law authorizing that corporations for profit may out of the earnings grant allowances or pensions for faithful and long continued service to employees who have in such service become old, infirm or disabled.[24]

VIII. PROTECTION OF EMPLOYEES

It is a crime for any officer or employee of any employer of labor to solicit, demand or receive directly or indirectly from any person, monies or other valuable thing for the purpose actual or alleged of either obtaining for the latter employment in the service of the employer or of the continuing by the parties so paying or soliciting, inside employment.[25]

IX. EMPLOYMENT AGENCIES

A state license to conduct employment business is necessary and such license can be withheld if applicant is unfit, or his office adjoins unsuitable premises.

No employer seeking employees, and no person seeking employment shall knowingly make any false statement, or conceal any material facts for the purpose of obtaining employees or employment by or through any employment agent.

A schedule of fees must be filed with the Secretary of the Department of Labor and Industry.

If any person fails through no fault of his own to obtain employment, the whole amount paid by such person to the employment agent as a fee, or for transportation or other expenses shall be refunded him on demand.

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[24] Act of May 11, 1893, P. L. 42.
[25] Act of June 9, 1911, P. L. 746.

No employment agent shall furnish any female for immoral purposes; or send or cause to be sent, any female employee, to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill-fame, or assignation house, or any house or place of amusement kept for immoral purposes, the character of which such employment agent could have ascertained upon reasonable inquiry.

No employment agent shall knowingly admit or allow to remain in such agency any person of bad character, prostitute, gambler, or intoxicated person.

No employment agent shall furnish employment to any child, in violation of the laws regulating the labor of children or their compulsory attendance at school.

The Commissioner shall inspect all labor camps and housing accommodations for employees, maintained directly or indirectly in connection with any work or place where work is being performed, and all places established for the temporary shelter and care of aliens and unemployed persons, and prescribe minimum standards of sanitation for all such labor camps, accommodations and temporary quarters.

The commissioner shall investigate the general industrial, social, and educational welfare and conditions of aliens within the state, for the purpose of cooperating with the various agencies of the state possessing the requisite jurisdiction in securing such remedial action as may be necessary.

The Commissioner shall enforce all laws pertaining to the sale of steamship tickets or orders for transportation; and prescribe rules and regulations for the protection in the purchase of and cancellation of third-class or steerage tickets, or orders for transportation; investigate conditions prevailing at all docks, ferries, railway stations, and other places where employees or aliens arrive or depart; and, in cooperation with the proper authorities, afford such employees or aliens protection against frauds, crimes, and exploitations; investigate all complaints of employees and aliens with respect to frauds, extortion, and improper practices by any person or corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon.[26]

[26] Act No. 397, June 7, 1915, P. L. 888, Sec. 19.

For further laws relating to Inspection see "Laws Administered by the Department of Labor and Industry" (1925) already referred to, including Safety of Employees, General Factory Laws, Health of Employees and Fire Protection. Reference should also be made to Brinton's "Digest of Labor Laws of Pennsylvania." (1917).

Chapter XI

THE COURT SYSTEM OF PENNSYLVANIA

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I. THE COURT SYSTEM OF PENNSYLVANIA

The machinery of the courts in Pennsylvania consists of four sections.

First we have the magistrate's, alderman or justice of the peace courts which have preliminary jurisdiction in many important matters, and whose function is to weed out cases coming for attention.

The second set of courts is represented by juvenile and domestic relations' courts and to some extent by the Workmen's Compensation Board. These courts are specialized agencies caring for particular types of work.

The third group of courts are the regular trial courts and consist of three different county courts, the court of common pleas, the court of quarter sessions and the orphans' court.

Finally, the Superior and the Supreme courts covering the whole State are established for the purpose of correcting errors in the trial of cases in the lower courts.

a. Preliminary Courts

Justices of the peace have jurisdiction in several kinds of cases; In contract matters where the sum demanded is not above one hundred dollars, and in amicable suits where the amount does not exceed one hundred dollars.[1]

[1] Act of March 20, 1810, 5 Sm. L. 161.

In actions for rent they have jurisdiction in matters not exceeding one hundred dollars.[2]

In actions for penalties for the breach of any ordinance of any city, township or borough, justices of the peace have jurisdiction to the extent of one hundred dollars.[3] They also have jurisdiction on demands not exceeding one hundred dollars founded on the judgment of any justice of the peace of an adjoining state.[4] Justices of the peace shall have jurisdiction in actions of damages for injury done or committed on real or personal estates where the alleged damage shall not exceed one hundred dollars.[5]

In cities other than those of the first class and elsewhere, this jurisdiction is increased in cases of contract, damage or otherwise except in cases of real estate or action upon breach of promise of marriage to the sum of three hundred dollars.[6]

The jurisdiction in the criminal cases has already been discussed in Chapter 3.

The procedure in a civil case is rather informal, consisting of an application to the justice of the peace by the injured party to start proceedings. A fee is charged for his sending out the original notice to the opposing party and the paper is served by the constable. A day is set for the hearing at which time both parties may be present and the matter may then be continued or decided. In matters not exceeding five dollars and thirty-three cents the decision of the justice is final.[7] In amounts in excess of five dollars and thirty-three cents, an appeal may be taken by the losing party to the court of common pleas to have the case heard over again.[8]

The justice is required to keep a docket of the cases handled.[9]

The constable performs services for the magistrate similar to those performed by the sheriff for the higher courts.

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[2] Act of March 22, 1814, 6 Sm. L. 182.
[3] Act of April 15, 1835, P. L. 291, Sec. 7.
[4] Act of February 27, 1845, P. L. 72.
[5] Act of March 22, 1814, 6 Sm. L. 182.
[6] Act of July 7, 1879, P. L. 194.
[7] Act of March 20, 1810, 5 Sm. L. 161.
[8] Act of April 15, 1845, P. L. 459 and the Act of March 20, 1845, P. L. 188.
[9] Act of February 20, 1833, P. L. 52.

The law relating to magistrates' courts in Philadelphia has recently been revised.[10] The jurisdiction in Philadelphia County is up to one hundred dollars.[11]

b. Specialized Courts

Reference should be made to the acts and rules relating to the Municipal Court of Philadelphia and pamphlet published by the court giving the details and procedure.

c. The Regular Trial Courts

In connection with the work of the orphans' court reference should be made to the special laws in 1917[12] adopted for the purpose of regulating and codifying the law on the subject of estates of deceased persons and minor children. These acts are the Intestate Act, Wills Act, Fiduciaries Act, Orphans' Court Partition Act, Revised Price Act, Register of Wills Act and the Orphans' Court Act. Some reference to these will be found in Chapter IV dealing with decedents' estates..

There are a number of amending acts increasing the jurisdiction.

In Pennsylvania, there are no special separate courts of equity as in some other states. The orphans' court exercises an equitable jurisdiction in respect to the matters before them; and the common pleas courts have special equity jurisdiction and sit at certain times as courts of equity with a different set of powers than they have as courts of law.

Ordinarily the same judges who sit in the common pleas courts sit also in the courts of quarter sessions. For further reference to this matter see Chapter 3, "Criminal Procedure."

The procedure in the courts of common pleas is regulated by statute and rule of court. The general law relating to the practice in ordinary proceedings is that of 1915.[13] This regulates the pleadings and procedure to be observed in cases of assumpsit and trespass excepting actions for libel and slander.

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[10] Act of May 10, 1927, P. L. 866.

[11] For extensive discussion as to the actual operation of these courts see "Piedpoudre Courts", a study of the small claim litigant in the Pittsburgh District, by Gustav L. Schramm of the Pittsburgh Bar.

[12] Act of June 7, 1917, P. L. 363.

[13] Act of May 14, 1915, P. L. 483.

In addition to this, special reference should be made at all times to the rules which each court makes for its own guidance and for the guidance of persons who come before it.

d. The Appellate Courts

The Superior Court was established by the Act of 1895.[14]

The Superior Court has no original jurisdiction, that is to say, no case can be started there except in the case of habeas corpus returnable to that court. Appeals to the Superior Court are made from the court of Oyer and Terminer and General Jail Delivery and the Court of Quarter Sessions. Appeals are also made from the proceedings in the Court of Common Pleas for a controversy that is not greater than fifteen hundred dollars in amount and also from the Orphans' Court in similar instances. Appeals in proceedings for divorce are heard by the Superior Court; and in Philadelphia appeals from the Municipal Court.

Appeals may be taken from the Superior court to the Supreme court in certain cases.[15] The Supreme court is established by the Constitution of the State of Pennsylvania and has final charge of the appeal of all cases except those specifically given to the Superior court.

Cases are presented to the Federal courts in certain specific matters; bankruptcy matters, matters involving immigration and all cases coming up under the laws of the United States rather than under the laws of Pennsylvania. In certain cases appeals may be taken from the Supreme court of Pennsylvania to the Supreme court of the United States if the facts of the case are such as to raise a question involving the rights of some one under the Constitution of the United States.

II. COURT OFFICERS

Court officers consist of three groups: Judges, lawyers and administrative officials.

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[14] Act of June 24, 1895, P. L. 212.
[15] Act of June 24, 1895, P. L. 212, Sec. 7.

Judges in Pennsylvania are provided for by the Constitution and certain additional laws.[16] Judges are elected for a period of ten years and vacancies may be filled by the governor by appointment until the next election.

III. LAWYERS

The general law with reference to the admission of attorneys is that of 1923.[17]

Lawyers are admitted to practice before the courts by passing special examinations provided by the State Board of Law Examiners. The new rules on this subject are extremely interesting, "Temple Law Quarterly" for October 1927, pages 3 and 29. Bar associations exist in many of the counties and there is a State Bar Association holding annual meetings and printing reports of its proceedings.

Local bar associations usually have boards of censors or grievance committees whose duties are to investigate complaints against members of the bar.

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[16] Acts of April 27, 1852, P. L. 465; February 26, 1903, P. L. 7; April 30, 1874, P. L. 118; June 12, 1919, P. L. 461; April 24, 1917, P. L. 95; and May 9, 1921, P. L. 421 and 422.

[17] Act of April 14, 1923, P. L. 333, Sec 70 et seq.; Act of July 11, 1923, P. L. 1069.

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SUPPLEMENT

TO

Laws of Pennsylvania Relating to Social Work

BY

JOHN S. BRADWAY
of the Philadelphia Bar

PUBLISHED BY

The Public Charities Association of Pennsylvania
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N.B. Chapters IV and IX are omitted since their subject matter was not affected by legislative action in 1929.

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FOREWORD

This Supplement lists the *amendments* to and the *repeals of* laws enacted prior to 1929. It also lists the *new laws* enacted since Mr. Bradway's book was published in January, 1929. In order, therefore, to obtain complete and up-to-date information upon any phase of Pennsylvania laws relating to social work, the reader should refer to the Supplement concurrently with the book.

Whenever there has been a change in a law referred to by Mr. Bradway, the page of the book on which the subject matter is alluded to is noted following the listing in the Supplement. Chapter headings and subdivisions of the book have been followed closely.

The compiler of the Supplement wishes to thank the following persons who kindly assisted in editing the material:

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Association of Pennsylvania, *Compiler.*

December, 1929.

CHAPTER I

Laws Relating to Children

I. STATUS

D. ADOPTION (Page 24)

Place of Adoption Adoptions may also take place in the county in which the person to be adopted resides.

Existing provisions relating to the consent of natural parents to an adoption, shall apply to adoptive parents when the person to be adopted has been adopted before.

ACT OF APRIL 26, 1929 (P.L. 822), amending sections 1 and 2 of the Act of April 4, 1925 (P.L. 127).

E. GUARDIAN AND WARD (Page 25)

Investment of Income Any guardian of the estate of a minor having sufficient income, may, upon petition to the orphans' court of the proper county, invest a portion of the income of such minor in life insurance policies for the benefit of such persons as the court may direct.

ACT OF APRIL 4, 1929 (P.L. 149).

II. PROTECTION AND WELFARE

2. The State Supervising System Attendance Officers (Page 30)

Home and School Visitors In addition to the existing requirement that the boards of school directors of the first, second, and third-class districts must, and in fourth-class districts may*, employ attendance officers, it is now provided that they may also employ "one or more persons to be known as attendance officers, or *home and school visitors*" whose duties shall be the same as attendance officers but whose work may be more comprehensive since they must first be legally certificated by the Department of Public Instruction after meeting the requirements of the State Council of Education.

ACT OF APRIL 11, 1929 (P.L. 497), amending section 1432 of the Act of May 18, 1911 (P.L. 309).

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*In fourth-class districts where there is no attendance officer elected, the supervising principal is required by virtue of his office to perform the duties of an attendance officer, or if there is no supervising principal, the secretary of the board may be required to act as attendance officer.

G. HEALTH AND SANITATION

I. School Medical Inspection and Hygiene
School Nurses (Page 37)

Any two or more school districts may jointly employ school nurses.

ACT OF MARCH 27, 1929 (P.L. 73), amending section 1508 of the Act of May 18, 1911 (P.L. 309).

5. Midwives (Page 39)

Licensing and Supervision Midwives must be licensed by the State Board of Medical Education and Licensure and supervised by the Secretary of Health, who is empowered to appoint not more than 5 physicians to serve as inspectors.

ACT OF APRIL 4, 1929 (P.L. 160), repealing the Act of April 27, 1909 (P.L. 249), the Act of June 14, 1911 (P.L. 928), and the Act of June 5, 1913 (P.L. 441).

6. Lying-in Hospitals (Page 40)

Licensing and Supervision Lying-in hospitals in third-class cities, boroughs, towns and townships, and all hospitals doing maternity work unless state-owned, state-aided or otherwise licensed, shall be licensed and supervised by the Department of Welfare. Burden of proof as to certain facts (i. e. alleged relationship of a patient to the authorities of the hospital) is placed upon the person prosecuted under the statute.

ACT OF MAY 6, 1929 (P.L. 1561), repealing the Act of April 26, 1893 (P.L. 24).

7. Vital Statistics (Page 40)*

Summary Convictions The law which made failure on the part of those responsible for filing records of births, marriages, deaths and diseases a misdemeanor and provided the penalties after conviction, is changed to enable summary conviction with the imposition of uniform penalties for the various offenses.

ACT OF MARCH 27, 1929 (P.L. 81), amending section 22 of the Act of June 7, 1915 (P.L. 900).

H. THE CHILD LABOR LAW**

Employment Certificates (Page 43, 3rd line)

Free Physical Examination In school districts of the first, second, third, and fourth classes, physical examination of a child applying for an employment certificate shall be made by a physician *employed* (instead of approved) by the board of directors of the district

*See also pages 200 and 217.

**See footnote on page 20 of this *Supplement*.

in which the child resides, or employed by the Commonwealth. The certificate of physical fitness shall be signed by this physician, and no fee or other compensation for such service shall be required from the child, his parents or guardians.

ACT OF MARCH 21, 1929 (P.L. 45), amending section 14 of the Act of May 13, 1915 (P.L. 286).

Obsolete Statutes on Employment of Minors Repealed

The following obsolete statutes on the employment of minors are repealed:

Act of April 15, 1913 (P.L. 69), Act of April 29, 1909 (P.L. 283), Act of June 9, 1911 (P.L. 832), Act of June 1, 1887 (P.L. 287), and Act of July 19, 1913 (P.L. 862).

ACT OF MARCH 27, 1929 (P.L. 77).

J. DEPENDENT, NEGLECTED AND DELINQUENT CHILDREN

5. Mothers' Assistance Fund (Page 53)

Basis of Distribution Changed

The classification of counties by population as a basis for distribution of Mothers' Assistance funds is eliminated, and a share of the Fund is now allowed to each participating county in proportion to its individual needs as shown by its experience during the preceding biennium in caring for needy families.

ACT OF APRIL 26, 1929 (P.L. 840), to carry into effect the Act of July 10, 1919 (P.L. 893) as amended.

CHARITABLE CORPORATIONS

Limit of Holdings

Charitable, literary, religious, and beneficial organizations and associations may acquire and hold real or personal estate to the clear yearly value of $350,000 (instead of $30,000) but no more unless authorized to do so by a decree of court.

ACT OF MARCH 13, 1929 (P.L. 21), amending the Act of April 22, 1889 (P.L. 42).

Excess Holdings

Charitable, religious, literary, etc., organizations and associations are authorized to hold property in excess of the clear yearly value of $350,000 after a special order of court is secured.

ACT OF APRIL 18, 1929 (P.L. 539), amending section 2 of the Act of June 1, 1915 (P.L. 701).

CHAPTER II

The Department of Welfare and the Poor Law

IV. THE POOR LAW

B. Poor Districts

II. Creation and Administration of Poor Districts (Page 80)

(4) Clinton County Unit Established

The township, borough and Lock Haven city poor districts in Clinton County are abolished and poor relief in this county is to be administered on the county unit system by the county commissioners.

ACT OF APRIL 11, 1929 (P.L. 509), amending section 200 of the Act of May 14, 1925 (P.L. 762), as amended by the Act of May 24, 1927 (P.L. 63).

(4) Lycoming County Unit Established

In the 1929 November elections Lycoming County by a decisive majority voted to change to the county unit system of administering poor relief, although a bill to that effect failed to pass in the 1929 Legislature. Lycoming County Commissioners are working now to put the new system into effect.

C. Appointment of Poor Directors (Page 81)

Election of Employes

The restriction which formerly obliged poor directors in all but first and second-class counties to hold *annual* elections of employes is removed.

ACT OF MARCH 11, 1929 (P.L. 519), amending section 211 of the Act of May 14, 1925 (P.L. 762).

Salaries of Poor Directors (Page 81)

Luzerne County

North and South Abington and Newton Townships

Directors of the Poor in North Abington, South Abington, and Newton townships in Luzerne County are to receive $5.00 (instead of $1.00) per day for all time spent in performing their official duties.

ACT OF MAY 8, 1929 (P.L. 1664), amending section 18 of the Act of April 4, 1868 (P.L. 660).

Philadelphia County

Directors of the Poor in poor districts in first-class counties are each to receive $500.00 a year payable out of the funds of the poor district.

ACT OF MAY 8, 1929 (P.L. 1667).

IX. Powers of Poor Directors (Page 84)

Communicable Diseases Poor Directors of second-class counties may spend money to provide care, and if necessary burial, of all persons within the district suffering from or dying of communicable disease.

ACT OF MAY 1, 1929 (P.L. 1212).

Contagious Disease Hospital (Page 90)

The restriction that a hospital for contagious disease must not be erected within 100 feet of any public highway is removed.

ACT OF MAY 6, 1929 (P.L. 1565), amending section 1206 of the Act of May 14, 1925 (P.L. 762).

Poor Buildings (Page 90)

County commissioners, except in first and second-class counties are authorized to levy a tax or issue bonds for the purpose of acquiring, erecting and furnishing buildings for poor purposes.

ACT OF MAY 6, 1929 (P.L. 1563), amending section 216 of the Act of May 14, 1925 (P.L. 762).

Poor District Employes County poor districts and the employes thereof are entitled to join the pension funds of second-class counties.

ACT OF MARCH 28, 1929 (P.L. 93), supplementing the Act of May 8, 1919 (P.L. 138).

CHAPTER III

Laws Relating to Crimes

I. CRIMES (Page 98)

Arson Arson is defined, constituted a felony, and penalties for conviction imposed from one month to 10 years' imprisonment, with the alternative of a fine in the case where the crime is attempted but not carried out.

ACT OF APRIL 25, 1929 (P.L. 767), repealing sections 137, 138 and 140 of the Act of March 31, 1860 (P.L. 382), and the Act of July 7, 1919 (P.L. 722).

Bombs and Noxious Gases The possession or carrying as well as the use of bombs and noxious gases except for military purposes is defined as a felony and the penalty for conviction includes the fine of one thousand dollars and imprisonment for from 2 to 10 years.

ACT OF APRIL 25, 1929 (P.L. 778).

AUTOMOBILES (Page 103)

Drug Addicts* The Department of Health may advise the Department of Revenue upon its request in writing, whether or not any offender against the laws relating to the operation of motor vehicles is listed with the Department of Health as an habitual user of narcotic drugs.

ACT OF APRIL 30, 1929 (P.L. 882), further amending section 8 of the Act of July 11, 1917 (P.L. 758), as amended by the Act of April 20, 1921 (P.L. 152).

Involuntary Manslaughter The penalty for involuntary manslaughter is increased from 2 to 3 years.

ACT OF APRIL 11, 1929 (P.L. 513), amending section 79 of the Act of March 31, 1860 (P.L. 382).

Machine Guns The ownership, purchase, sale, giving away or use of machine guns (i. e. any firearm that fires two or more shots consecutively at a single function of the trigger or firing device) except for military purposes and under special license, is defined as a felony and conviction carries with it a penalty of one thousand dollars and up to 5 years' imprisonment. For attempt to commit crime while so armed the conviction carries a penalty up to 10 years' imprisonment with the stipulation that this shall not run concurrently with the sentence given for conviction of having, selling or giving a machine gun.

ACT OF APRIL 25, 1929 (P.L. 777).

*See also pages 187 and 205 of *Laws of Pennsylvania Relating to Social Work.*

LARCENY SUITS
(Page 119)

Where a person is accused of the larceny of goods of less than one hundred dollars in value, and has made restitution, a nolle prosequi may be entered if the complainant appears and acknowledges that satisfaction has been made.

ACT OF APRIL 11, 1929 (P.L. 514), amending section 9 of the Act of March 31, 1860 (P.L. 427).

Persistent Offenders Persons convicted of a second or subsequent offense of certain crimes committed within 5 years after the first offense, or a subsequent offense committed within 5 years after the prior offense, may be sentenced to imprisonment for a term the maximum of which shall not be more than twice the longest term prescribed upon a first conviction for the crime in question.

A person having been three times convicted within or without the Commonwealth, of these certain crimes or the attempt to commit them, shall upon the conviction for the fourth offense committed within 5 years after the prior offense, be sentenced, in the discretion of the judge trying the case, to imprisonment for life. Such life sentences are reviewable on appeal.

ACT OF APRIL 29, 1929 (P.L. 854).

Material Witnesses Compensated Any person detained in prison in connection with any criminal prosecution as a material witness shall be entitled to compensation at the rate of $5.00 a day for every day detained, to be paid upon release of the witness, by the county in which he has been detained.

ACT OF MARCH 21, 1929 (P.L. 37).

E. PROCEEDINGS SUBSEQUENT TO THE TRIAL

3. Probation and Parole (Page 128)

For violation of parole from the Pennsylvania Industrial Reformatory at Huntingdon, the parolee may be returned and required to serve the unexpired term of his possible maximum sentence.

ACT OF MAY 1, 1929 (P.L. 1183).

Board of Parole Authorized The State Board of Pardons is authorized to establish a Board of Parole and the Attorney General of the Commonwealth is empowered to appoint a Supervisor of Parole and such agents as may be needed to supervise men paroled from the Pennsylvania Industrial Reformatory and the state penitentiaries.

ACT OF MAY 1, 1929 (P.L. 1184).

Procedure and Powers of the State Board of Pardons in Regard to Parole

The procedure and powers of the State Board of Pardons in regard to prisoners paroled from penitentiaries is defined and such men may now for breach of their parole be rearrested and returned to the penitentiary. A full report of the case must then be sent to the Governor and if in his opinion such a course is justified the parole violator may be required to serve a period of imprisonment equal to the unexpired maximum term of his sentence.

ACT OF MAY 1, 1929 (P.L. 1182).

4. Prisons and Prison Labor
Transfer of Prisoners (Page 131)

Department of Welfare May Transfer

The Department of Welfare is authorized to transfer male prisoners from unsuitable county institutions provided that consent for the transfer is given by the court which originally committed the prisoner. The cost of maintenance rests on the county in which the prisoner was originally committed.

ACT OF APRIL 18, 1929 (P.L. 542).

When the Department of Welfare May Transfer

The Department of Welfare is authorized on the petition of the superintendent or board of trustees of any county or state penal or correctional institution, setting forth that it is overcrowded or unsuitable for the care of prisoners, to transfer prisoners to a more suitable institution provided that before the transfer is made the court of quarter sessions of the county in which the proposed institution is situated shall first give its consent to the transfer. The Department of Welfare is also authorized to transfer prisoners direct to the Western Penitentiary at Rockview, although no court in the state may commit prisoners there directly.

ACT OF APRIL 23, 1929 (P.L. 640), amending sections 1 and 2 and adding section 6 of the Act of July 11, 1923 (P.L. 1044).

G. COUNTY PRISONS AND JAILS (Page 134)

Industrial Farms*

Ten "industrial farms" may be established to replace county prisons and jails, the state for the purpose being arbitrarily divided into ten districts. In districts outside of Allegheny County and Philadelphia, the Department of Welfare is given authority to call together county commissioners to consider the establishment of such industrial farms. This Department is also to approve sites and building plans, and rules and regulations made by the district prison boards, including the duties of officers of these industrial farms. Commitment is made mandatory of all persons sentenced to serve from ten days or more for all crimes except involuntary manslaughter, murder, arson, and rape. Prisoners are to receive stated compensation for their labor.

The Act shall not become operative in any district until *all* of the counties comprising any such district, by specific action of their boards of commissioners, shall have agreed to come under the provisions of the statute.

ACT OF MAY 6, 1929 (P.L. 1545), repealing the Act of July 20, 1917 (P.L. 1151).**

*See also REGIONAL FARMS, Page 76.

**The administrative set-up under the old Act was similar to that under the new Act except for the powers given the Department of Welfare as noted above.

CHAPTER V

Laws Relating to Workmen's Compensation Act

A. APPLICATION (Page 147)

Amendments

(1) Accidents Outside of Commonwealth

Provisions of the Workmen's Compensation Act shall include certain accidents occurring outside the Commonwealth to employes when the latter are performing services for employers whose place of business is within the Commonwealth.

ACT OF APRIL 29, 1929 (P.L. 853), amending section 1 of Article 1 of the Act of June 2, 1915 (P.L. 736).

(2) Accidents to State Employes Outside of Commonwealth

Provisions of the Workmen's Compensation Act shall apply to accidents occurring to state employes outside the Commonwealth while such employes are engaged in duly authorized business of the Commonwealth (2).

(3) Employer Penalized

Penalties are imposed upon the employer for failure to comply promptly with the provisions of the Workmen's Compensation Act (3).

(4) Compensation To Remarried Widows

Upon remarriage of any widow, other than a non-resident alien widow, the compensation granted under the Workmen's Compensation Act shall continue as provided by law for one-third of the period during which the compensation remains payable to her (4).

ACT OF APRIL 26, 1929 (P.L. 829), amending, respectively:
(2) Section 1 of the Act of June 2, 1915 (P.L. 736).
(3) Section 305 of the Act of June 2, 1915 (P.L. 736), as amended by Act of April 7, 1921 (P.L. 114).
(4) Section 307 of the Act of June 2, 1915 (P.L. 736), as amended by section 2 of the Act of April 13, 1927 (P.L. 186).

II. PROCEDURE (Page 153)

Appeals from Compensation Decisions

Appeals from the decisions of the courts of common pleas in regard to compensation awards, may be appealed *regardless of the amount involved,* and shall be made to the *Superior* court, and the judgment of the Superior Court shall be final unless an appeal is allowed therefrom as in the case of other judgments of that tribunal.

ACT OF APRIL 5, 1929 (P.L. 175), amending the last paragraph of section 427 of the Act of June 2, 1915 (P.L. 736).

Workmen's Insurance Fund

Employer Re-imbursed

The State Workmen's Insurance Fund is authorized in all cases where an insured employe or his representative elects to waive claims for damages under the Workmen's Compensation Act and sues for damages, to reimburse the employer for recoveries had at common law in amounts not greater than the scale of compensation fixed by the Workmen's Compensation Act of 1915 and its supplements.

ACT OF APRIL 26, 1929 (P.L. 826).

CHAPTER VI

Marriage, Divorce and the Rights of Married Persons

3. ANNULMENT AND DIVORCE (Page 162)

Divorce Code The Divorce Code, which became effective September 1, 1929, did not change any of the existing grounds for divorce, but did change some minor points of procedure. It codified all the laws pertaining to divorce and repealed all existing and obsolete statutes on divorce.

ACT OF MAY 2, 1929 (P.L. 1237), which also repealed the following statutes:

Sections 1, 2, 3, 4, 7, 8, 11, 12 and 13 of the Act of March 13, 1815 (P.L. 150).
Act of February 26, 1817 (P.L. 67).
Section 8 of the Act of April 13, 1843 (P.L. 233).
Act of April 15, 1845 (P.L. 455).
Sections 5 and 6 of the Act of April 6, 1850 (P.L. 590).

Act of May 8, 1854 (P.L. 644).
Act of March 9, 1855 (P.L. 68).
Act or April 22, 1858 (P.L. 450).
Act of April 14, 1859 (P.L. 647).
Act of April 11, 1862 (P.L. 430).
Act of May 25, 1878 (P.L. 156).
Act of June 11, 1891 (P.L. 295).
Act of June 20, 1843 (P.L. 471).
Act of May 22, 1895 (P.L. 105).
Act of June 25, 1895 (P.L. 308).
Act of March 9, 1903 (P.L. 19).
Act of April 28, 1903 (P.L. 326).
Act of April 18, 1905 (P.L. 211).
Act of April 22, 1905 (P.L. 293).
Act of April 26, 1905 (P.L. 309).
Act of May 1, 1909 (P.L. 374).
Act of April 13, 1911 (P.L. 60).
Act of April 20, 1911 (P.L. 71).
Act of June 8, 1911 (P.L. 720).
Act of May 9, 1913 (P.L. 191).
Act of April 21, 1915 (P.L. 154).
Act of June 1, 1915 (P.L. 674).
Act of May 8, 1919 (P.L. 164).
Act of May 11, 1921 (P.L. 499).
Act of March 19, 1923 (P.L. 20).
Act of June 28, 1923 (P.L. 886).
Act of April 4, 1925 (P.L. 124).
Act of March 29, 1927 (P.L. 71).
Act of April 27, 1927 (P.L. 406).

CHAPTER VII

Laws Relating to Mental Patients and Habitual Users of Drugs and Alcohol

II. THE MENTAL HEALTH ACT OF 1923

Patients in State-owned Institutions (Page 185)

Legal Residence Determined

The Department of Welfare is authorized to determine the legal residence of indigent, insane, feebleminded, and epileptic persons returned to this Commonwealth by the authorities of another state or transferred from one poor district to another by the Department of Welfare, and to require the proper district to pay the costs of the care and treatment of such persons in accordance with the laws relating to care of the indigent insane.

ACT OF APRIL 11, 1929 (P.L. 487).

Support of Patients

Before accepting an application for the admission of a mental defective or a mental patient or an epileptic to a state institution, the Department of Revenue shall fix the rate that shall be paid for maintenance of such a patient, and the rate once fixed may be changed only by the Department of Revenue. This Department will also collect county support for county patients in state institutions or arrange when necessary to have the Department of Justice do so.

ACT OF APRIL 25, 1929 (P.L. 700), amending section 300 of the Act of July 11, 1923 (P.L. 998).

VI. EMPLOYMENT OF INMATES IN STATE INSTITUTIONS (Page 189)

Department of Revenue to Collect Proceeds

The proceeds of the sales of articles and products made by patients in state institutions and hospitals shall be collected by the Department of Revenue to be transmitted to the State Treasurer.

ACT OF APRIL 25, 1929 (P.L. 707), amending section 3 of the Act of May 28, 1907 (P.L. 290), as amended by Act of April 27, 1925 (P.L. 307).

VII. EXPENSE OF CARE AND TREATMENT OF INDIGENT INSANE (Page 190)

Charges on State and County

The cost of supporting indigent mental patients in state-owned institutions is $3.00 a week chargeable to the county or poor district from which the patient comes, the remainder of the cost to be borne by the state, providing that where a portion of the cost can be collected from the person or persons liable for the patient's support, that the uncollectible portion of such cost shall be borne equally by the county or district and the state.

ACT OF APRIL 25, 1929 (P.L. 707), repealing the Act of April 7, 1927 (P.L. 157).

Veterans

Mentally ill, feeble-minded, or incompetent veterans may be committed to the United States Veterans' Hospital.

ACT OF APRIL 23, 1929 (P.L. 635), amending the Act of July 11, 1923 (P.L. 998).

CHAPTER VIII

Laws Relating to Public Health and Safety

A. PUBLIC HEALTH

1. Statewide Machinery for Supervision Over Public Health

b. Department of Health (Page 197)

Boards of Health in Third-Class Cities Public health authorities in third-class cities may appoint boards of health from the directorates of private organizations if they are organized primarily to promote public health in those cities. The chief administrator appointed, who must be a physician of experience, shall have all the powers and authority and duties of principal health officers in third-class cities.

ACT OF MARCH 21, 1929 (P.L. 42).

2. Laws Relating to the Regulation, Manufacture and Sale of Drugs

a. Drugs (Page 205)

Term Defined The term drug is defined as including all medicines recognized in the *tenth* revision of the Pharmacopoeia of the United States, the *fifth* edition of the National Formulary or the American Homeopathic Pharmacopoeia for internal or external use.

When any such drug is sold and does not equal the standard set by the foregoing it shall be deemed adulterated except where it is merely an ingredient in a formula, in which case its standard of strength, purity and quality must be plainly marked upon the container.

ACT OF APRIL 9, 1929 (P.L. 462), amending section 2 of the Act of May 8, 1909 (P.L. 470), as amended by the Act of June 7, 1917 (P.L. 564), and section 3 of the same Act as amended by the Act of April 27, 1927 (P.L. 458).

3. Laws Relating to Food, Liquors, and Water Supplies (Page 207)

a. Food

Kosher Products The labeling and sale of "kosher" food products are regulated and penalties for violation imposed.

ACT OF MARCH 28, 1929 (P.L. 105), repealing the Act of July 21, 1919 (P. L. 1063).

Meat The slaughtering, handling and preparing of diseased and suspected animals for human food and other purposes is regulated and enforcement of the Act placed with the Department of Agriculture.

ACT OF APRIL 30, 1929 (P.L. 899).

c. Milk and Milk Supplies (Page 209)

Each person who sells milk for human consumption must obtain an annual permit to do so from the Department of Health. Permits may also be issued by municipalities for the sale of milk within their jurisdiction, but only when such municipalities adopt and enforce Milk Ordinances of equal or greater stringency than the State Law. All milk, except condensed and evaporated milk, comes under the rulings of this statute. This is the first law in Pennsylvania providing regulations concerning the *safety and cleanliness of milk supplies for the entire State.*

ACT OF MAY 2, 1929 (P.L. 1229).

Obsolete Milk Statutes Repealed

The following obsolete statutes relating to the regulation of the sale of milk were repealed:
Act of April 27, 1909 (P.L. 237), Act of March 24, 1909 (P.L. 62), Act of May 23, 1919 (P.L. 275), Act of May 16, 1901 (P.L. 221), Act of June 26, 1895 (P.L. 320), Act of June 28, 1923 (P.L. 900).

ACT OF MARCH 27, 1929 (P.L. 79).

B. PUBLIC SAFETY (Page 218)

I. POLICE

Industrial Police

The "coal and iron" police are abolished and in their place are substituted "Industrial Police." The power of such police is prescribed and the Governor authorized to investigate their work and to require periodical reports from them.

ACT OF APRIL 18, 1929 (P.L. 546), repealing the Act of April 11, 1866 (P.L. 99), which supplemented the Act of February 27, 1865 (P.L. 225), as amended by the Act of April 8, 1925 (P.L. 214).

CHAPTER X

Laws Relating to Labor

III. LAWS RELATING TO CONDITIONS OF EMPLOYMENT (Page 232)

Bakeries Prison sentences may be imposed for failure to pay fines imposed for violations of the act relating to the conduct of bakeries, and prosecutions for violations may be instituted by the Department of Labor and Industry in the form of summary proceedings before an alderman, magistrate or justice of the peace.

ACT OF APRIL 18, 1929 (P.L. 543).

IX. EMPLOYMENT AGENCIES (Page 246)

Certain Agencies Must Be Licensed Employment agencies charging fees for their services are to be licensed and supervised by the Department of Labor and Industry, and must furnish $1,000 surety bond each before a license is granted. Agencies coming into the state to take labor outside the Commonwealth are subject to supervision.*

ACT OF MAY 2, 1929 (P.L. 1260).

Obsolete Labor Statutes Repealed The following obsolete statutes relating to the employment of men, women and children were repealed:

Statute	Repealed by
Act of April 4, 1901 (P.L. 68).	Act of March 29, 1929 (P.L. 76).
Act of April 29, 1897 (P.L. 30). Act of April 29, 1901 (P.L. 322). Act of March 20, 1903 (P.L. 47).	Act of March 27, 1929 (P.L. 78).
Act of April 11, 1895 (P.L. 34).	Act of April 17, 1929 (P.L. 530).
Act of July 24, 1913 (P.L. 970).	Act of April 18, 1929 (P.L. 608).
Act of April 14, 1868 (P.L. 99).	Act of April 26, 1929 (P.L. 608).
Act of May 7, 1855 (P.L. 472).	Act of April 26, 1929 (P.L. 820).

CHAPTER XI

The Court System of Pennsylvania

I. (a) PRELIMINARY COURTS (Page 249)

Jurisdiction is conferred upon magistrates, aldermen, and justices of the peace to hear and dispose of a prosecution and impose the penalties therefore, in cases where the Act of Assembly defines an offense and renders it punishable upon summary conviction or summary proceedings.

ACT OF APRIL 26, 1929 (P.L. 824).

*Section 22, paragraph c, of this statute carries the provision that such employment agencies may apply for a special license from the Secretary of Labor and Industry for the appearance of a child "in what is known as a road performance or exhibition in any theatre in this Commonwealth." The Department of Justice indicates in an opinion given recently to the Bureau of Women and Children of the Department of Labor and Industry that this is unconstitutional and advises against the issuance of such special certificates to any minor. (See paragraph 1, page 62, of *Laws of Pennsylvania Relating to Social Work.*)

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